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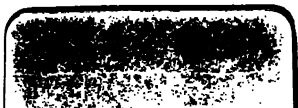


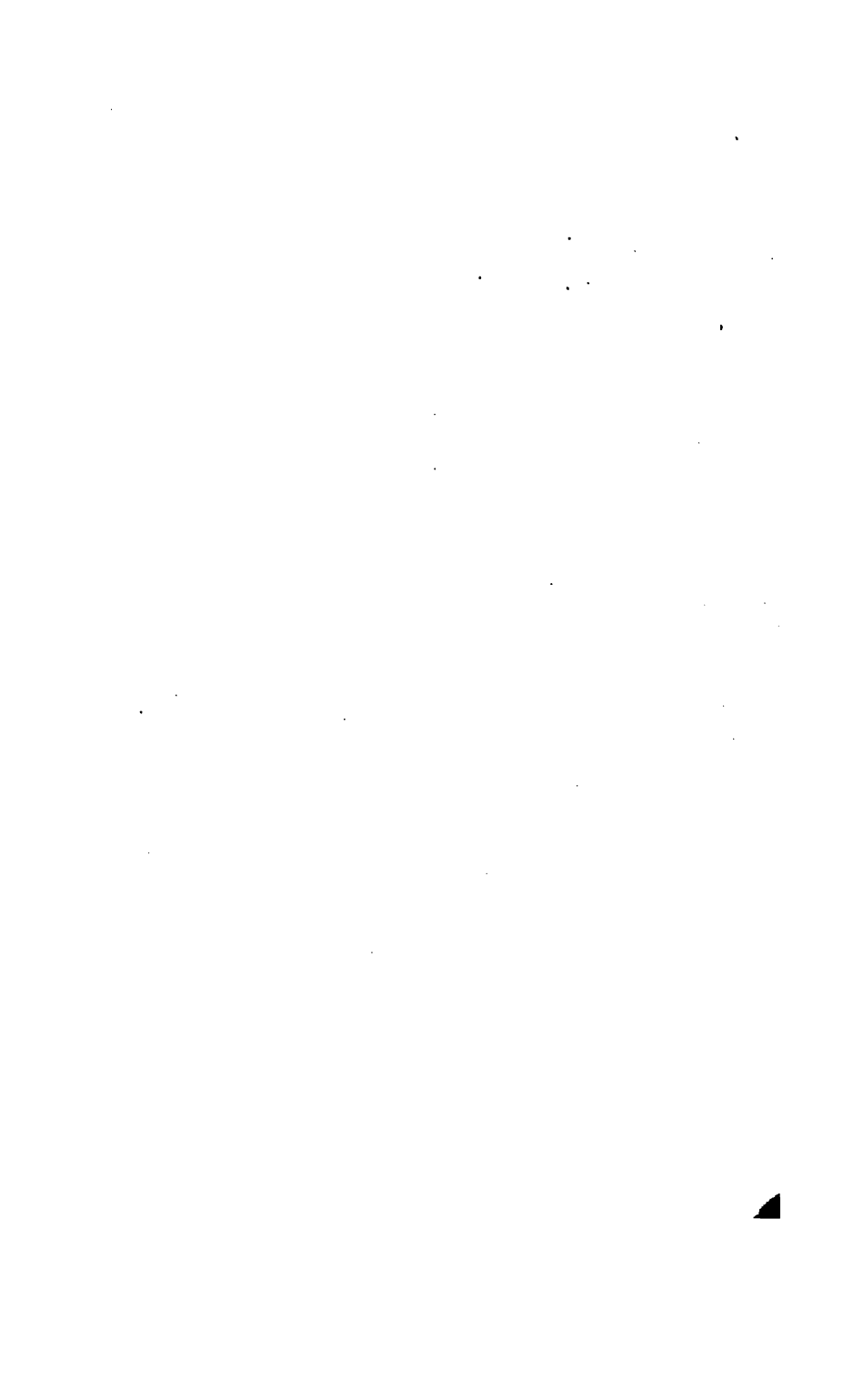
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THE
LIQUOR LAWS FOR SCOTLAND.



THE LIQUOR LAWS FOR SCOTLAND,

INCLUDING THE

LICENSING AND EXCISE ENACTMENTS
PRESENTLY IN FORCE;

WITH

*REPORT BY ROYAL COMMISSION ON GROCERS' LICENCES;
RULING DECISIONS OF THE SUPREME COURT FROM 1862 to 1884
AND EXPLANATORY NOTES AND INDEX.*

BY

DAVID DEWAR,

CHIEF CONSTABLE AND PROCURATOR-FISCAL FOR THE BURGH
OF DUNDEE.

EDINBURGH:
WILLIAM GREEN,

Printed and Published by

1884.



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Q.C., LL.D., M.P.,

LORD ADVOCATE FOR SCOTLAND.



PREFACE.

THE Statutes which regulate and affect hotels, public houses, and the business of licensed grocers in Scotland are now so numerous—thirty-six in all—that it has become absolutely necessary, with a view to an intelligent knowledge of their provisions, not only by the holders of licences, but by Magistrates, officers of police, and others interested in the proper administration of these Statutes, that they should be published in a concentrated form. That has now been attempted for the first time, by the compilation of this volume, which contains copies of ten public General Statutes, and all the operative clauses directly affecting the liquor traffic, extracted from nineteen public General Statutes, and seven Local Statutes, with notes.

In 1878 a Royal Commission on Grocers' Licences in Scotland, presided over by Sir James Fergusson, Bart., K.C.B., conducted a careful inquiry on the Licensing Laws, and issued a most valuable and exhaustive report, a copy of which is printed in the appendix to this volume, and which is well deserving of careful perusal.

An epitome of reports of forty-one decided cases under the Public Houses Acts, etc., from 1862 to 1884, extracted chiefly from the Justiciary Reports, is also hereto appended, the publication of which, it is confidently hoped, may be of great

value in enabling parties more fully to understand their rights, liabilities, and responsibilities under the Acts.

It is somewhat remarkable that so many Acts are at present in force containing important provisions affecting the trade in exciseable liquors, extending from 1751 to the present year, and that no attempt has hitherto been made to consolidate these Statutes. It is to be hoped that when Parliament again engages in liquor traffic legislation, it will make an earnest effort to have this effected. The publication of the present handbook may be of some use in bringing about such a consolidation, and will meantime, with its alphabetical index, supply what is believed to be a much felt want.

The compiler, who has had an experience of over a quarter of a century in the enforcement of Public House Statutes, hopes his present effort, in supplying what he conceives to be a desideratum, may be found useful.

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PUBLIC GENERAL STATUTES.

I.—THE HOME DRUMMOND ACT.

9 GEO. IV. CAP. 58.

An Act to regulate the granting of Certificates, by Justices of the Peace and Magistrates, authorizing Persons to keep Common Inns, Alehouses, and Victualling Houses in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licences; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate.—[15th July 1828.]

WHEREAS the laws now in force respecting licences or certificates to be granted by Justices of the Peace and Magistrates to persons to keep common inns, alehouses, or victualling houses, for the purpose of enabling them to obtain excise licences for the sale of ale, beer, spirits, wine, or other exciseable liquor, by retail, to be drunk or consumed upon the premises in which the same is sold, in Scotland, are defective, and require to be altered and amended: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, an Act

passed in the forty-fourth year of the reign of his late Majesty King George the Third, for more effectually preventing the sale of exciseable liquors in Scotland by persons not duly licensed, and for altering the times of granting licences to sell such exciseable liquors by retail, and also an Act passed in the forty-eighth year of his said late Majesty, for repealing the stamp duties on licences granted by Justices of the Peace for selling ale, beer, and other exciseable liquors by retail, and for granting other duties in lieu thereof, and all other laws and provisions in force before and at the commencement of this Act, respecting such licences or certificates to be so granted as aforesaid by Justices of the Peace or Magistrates in that part of Great Britain called Scotland, shall be, and the same, in so far as they relate to such licences or certificates being granted as aforesaid, are hereby respectively repealed, save and except in so far as the same repeals or repeal any other law or laws before in force, and save and except as to any fine, penalty, or forfeiture incurred under the said laws or any of them hereby repealed before the commencement of this Act, and save and except as to any certificates then in force, which shall continue in force until the next half-yearly meeting for granting certificates as after mentioned, but no longer.

Note.—Repealed by Statute Law Revision Act, 1873.

II. *Meetings of Justices for granting certificates.*—And be it further enacted, that throughout Scotland there shall be annually held, for the purpose of granting certificates to persons to keep common inns, alehouses, or victualling houses, to sell exciseable liquors by retail, to be drunk or consumed in the premises in which the same is sold, two general meetings of the Justices of the Peace in every county, so long as not divided into districts in manner hereinafter mentioned, and two general meetings of the Magistrates of every royal burgh, which meetings shall be called ‘the general half-yearly meetings for granting publicans’ certificates.’

Note.—This section was repealed by the Statute Law Revision Act, 1873, but has been revived by the Statute Law Revision Act, 1878.

By section 37 of 'The Public Houses Acts Amendment (Scotland) Act, 1862,' the word 'burgh' means and includes any royal or parliamentary burgh.

III. *Meetings by Magistrates of royal burghs for granting certificates to be held in April and October yearly.*—And be it further enacted, that the Magistrates of royal burghs shall meet for granting such certificates, within the royalty of the said burgh respectively as aforesaid, upon the last Tuesday of April and the last Tuesday of October in each year, with power to them to adjourn such meetings from day to day as they shall think fit, during the period of seven lawful days following and next after the day of their first meeting, and no longer: provided always, that Magistrates of royal burghs shall in no case have power to grant such certificates as aforesaid for inns, alehouses, or victualling houses to be kept beyond the royalty of the burgh; and if any such certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all intents and purposes.

Note.—This section was repealed by the Statute Law Revision Act, 1873, but has been revived from the words 'provided always' to the end of the section by the Statute Law Revision Act, 1878.

The days of meeting and period within which adjournments may take place have been altered by section one of 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

IV. *Meetings by Justices for counties to be held in May and October.*—And be it further enacted, that the Justices of the Peace for the several counties in Scotland shall assemble, for granting such certificates for their several counties respectively, upon the first Tuesday of May and the last Tuesday of

October in each year, with power to them to adjourn such meetings from day to day, as they shall think fit, during the period of seven lawful days following and next after the day of their first meeting, and no longer: provided always, that such Justices shall not have power to grant such certificates for the royalty of any royal burgh, except as after mentioned; and if any such certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all intents and purposes.

Note.—This section was repealed by the Statute Law Revision Act, 1873, but has been revived from the words ‘provided always’ to the end of the section by the Statute Law Revision Act, 1878.

See note at the end of previous section as to alteration in days of meeting, etc.

V. *Justices may divide counties into districts for the purposes of this Act—Notice to be given thereof—Justices may alter any district on like notice.*—And be it further enacted, that it shall be lawful for the Justices of the Peace of any county, assembled at a meeting to be held on the same day on which the first Michaelmas Head Court of the county shall be held after the passing of this Act, to divide the county into districts for the purposes of this Act, within which such Justices shall assemble at a place to be by them appointed, for considering and disposing of applications under this Act, at the times before specified; and notice of the place of meeting so to be appointed, and of the name and residence or office or place of business of a clerk or deputy clerk within such district, with whom applications and recommendations may be lodged in terms of this Act (as after mentioned), shall be given by advertisement at the church doors of every parish church within the district, for two several Sundays at least, before the first holding of such district meeting so appointed: provided always, that it shall be lawful for the Justices of the Peace of any county, at

any Michaelmas meeting as aforesaid, after previous notice by three advertisements published one month before such Michaelmas meeting in any newspaper or newspapers circulated within the district to be affected by the change proposed to be made, at any time to alter or change any district or place of district meeting by them appointed, due notice thereof being given, in like manner as aforesaid, at every parish church before the next holding of such district meeting.

VI. *If not sufficient Justices acting for any royal burghs, the Justices of the county may Act.*—And be it further enacted, that if in any royal burgh there shall not be a sufficient number of Magistrates present who are qualified to grant certificates according to the directions of this Act, at any time when such certificates are hereby appointed to be granted, in such case it shall and may be lawful for the Justices of the Peace of the county in which such royal burgh is situated to grant certificates for such royal burgh, at the same time and in the same manner as they are hereby empowered to grant certificates for the county: provided always, that any Magistrates of such burgh, so qualified, may and are hereby authorized and empowered in such case to act along with such Justices in granting such certificates.

VII. *Certificates to be granted—Proviso as to meetings for granting certificates.*—And be it further enacted, that at such general or district meetings, or at any adjournment thereof, within the respective periods aforesaid, it shall be lawful for the said Justices and Magistrates respectively to grant certificates for the year next ensuing, commencing as after mentioned, to such and so many persons as the Justices or Magistrates then assembled at such general or district meeting, or the major part of them, shall think meet and convenient, to keep common inns, alehouses, or victualling houses, within which ale, beer, spirits, wine, and other exciseable liquors may, under excise licences, be sold by retail, to be drunk or con-

sumed in the premises, within their respective counties, districts, or royal burghs ; and such Justices or Magistrates shall deliver or cause to be delivered to every person so authorized or empowered a certificate, written or printed on paper, in such form as hereinafter directed : provided always, that all such meetings shall be held with open doors ; and that it shall not be competent to refuse the renewal of any certificate without hearing the party in support of the application for renewal in open court, if such party shall think fit to attend ; and that there shall be at least two Justices of the Peace or Magistrates respectively present at such meetings ; and any certificate granted otherwise than at such meetings shall be void and of no effect.

VIII. *Certificate to be confined to one house and premises—**Proviso as to fairs, etc.*—And be it further enacted, that no such certificate as aforesaid shall entitle any person to keep a common inn, alehouse, or victualling house, or to obtain an excise licence for selling ale, beer, spirits, wine, or other exciseable liquors, by retail, to be drunk or consumed in any other house or premises than the house and premises specified in such certificate : provided always, that nothing in this Act contained shall be construed to prohibit any person who shall have obtained such certificate from selling ale, beer, spirits, wine, or other exciseable liquors in boats or vessels moored in rivers, at any time, or in houses, booths, or other places, at the time and within the limits of the ground, town, or place in or upon which is holden any lawful fair, in the same parish with the house or premises for which any person shall have obtained a certificate as aforesaid, or in any parish immediately adjoining thereto.

IX. *Certificate to be in force for a year.*—And be it further enacted, that every such certificate as aforesaid shall be in force for one whole year, commencing at the term of Whitsunday, or for six months from Martinmas respectively, according to the period of the year at which such certificate was granted, and no longer.

X. *Application to be lodged with the Clerk of the Magistrates ten days before the meeting for granting certificates.*—And be it further enacted, that in all cases a written or printed application shall be lodged with the clerk of the Magistrates of the royal burgh, or of the Justices of the Peace for the county, at least ten days before the first day of the general or district meeting for granting such certificates, setting forth the name and designation of the applicant, and specifying the house or premises, for which such applicant craves that such certificate may be granted, by the name of the street or place, and the number of the house, or other particular description; and that a fee of two shillings, and no more, shall be payable to the clerk at lodging such application.

Note.—Repealed by Statute Law Revision Act, 1873. See section 8 of 'The Public Houses Acts Amendment (Scotland) Act, 1862,' as to form of application, time of lodging same, etc.

XI. *Magistrates may make regulations regarding applications.*—And be it further enacted, that it shall be lawful for the Justices or Magistrates respectively, assembled at any such general or district meeting as aforesaid, to make such regulations and rules as they shall think fit, not being inconsistent with the provisions of this Act, as to the manner of making such applications, as well for ascertaining the character of the applicants, as whether it be expedient to grant such certificates in the places in which they are sought to be obtained, and also as to the mode of proceeding in transferring certificates as hereinafter mentioned.

XII. *Names and designations of applicants to be entered in a book, and kept by the clerk—Result of such applications to be also entered.*—And be it further enacted, that the names and designations of all persons who make applications for such certificates shall be entered in a book or register, to be kept by the clerk of such Justices or Magistrates respectively, wherein the names

and designations of new applicants shall be entered separately, which book or register shall contain columns for the designations of such applicants, for the names of the persons who recommend them, for the house and place for which such certificate is applied, for the manner in which the application is disposed of, and for noting a memorandum of convictions under this Act against such persons respectively, and the dates thereof; and the cases of new applicants shall not be considered until all the other cases shall have been disposed of; and that at the end of the meeting for each day, a deliverance shall be written in such book or register, specifying whether such applications respectively were granted or refused, or continued for farther inquiry, or how otherwise disposed of; and such deliverance shall be then and there signed by the major part of such Justices or Magistrates so assembled, or by the preses of the meeting, according to the form contained in the schedule annexed to this Act, therein designated by the letter A; and it shall not be lawful for the Justices or Magistrates at any adjourned meeting to alter anything which was done at any previous meeting in granting or refusing such certificates; and the clerk of such Justices or Magistrates shall make out a certificate in the form contained in the schedule annexed to this Act, designated by the letter B, specifying the date from which such certificate shall be current.

Note.—See form of register in schedule appended to Forbes Mackenzie Act, as also section 10 of ‘The Public Houses Acts Amendment (Scotland) Act, 1862,’ and Schedule C appended to that Act.

The preses or chairman at Special or Quarter Sessions has not a casting vote.

XIII. *Persons interested not to act as Justices.*—And be it further enacted, that no Justice of the Peace or Magistrate in any county or royal burgh, who is a brewer, maltster, distiller, or dealer in or retailer of ale, beer, spirits, wine, or other

exciseable liquors, or who shall be in partnership with any person as a brewer, maltster, distiller, or dealer in or retailer of ale, beer, spirits, wine, or other exciseable liquors, shall act as such Justice of the Peace or Magistrate respectively in the execution of this Act; nor shall any Justice of the Peace or Magistrate act in the granting of any certificate when he shall be the proprietor or tenant of the house or premises for which such certificate shall be applied for; and everything done by a Justice of the Peace or Magistrate respectively in any case in which he is so disqualified to act shall be null and void; and every Justice of the Peace or Magistrate, who shall knowingly or wilfully offend in any of the premises aforesaid, shall forfeit and pay the sum of fifty pounds, to be recovered, by any person who will prosecute for the same, before the Sheriff of the county, within six calendar months next after the offence has been committed.

XIV. *Appeal as to certificates.*—And be it further enacted, that if any Justice of the Peace, or proprietor or occupier of any house in respect whereof any such certificate shall be applied for, shall be dissatisfied with any proceeding of any Justices or Magistrates assembled for granting certificates as aforesaid, whether in granting or refusing or otherwise disposing of any such application, it shall be lawful to such Justices of the Peace, proprietor, or occupier, to appeal therefrom to the next Quarter Sessions of the Peace for the county: provided always, that such appeal shall be lodged with the clerk of the peace within ten days after such proceeding; and provided such appellant, being a proprietor or occupier as aforesaid, shall find caution to abide such appeal and the expenses thereof, and shall give intimation of such appeal to the opposite party, and to the Justices of whose proceeding he complains.

Note.—By the Act 39 and 40 Vict. cap. 26, no appeal to Quarter Sessions is allowed when a certificate for new premises is refused. A certificate granted for

new premises requires confirmation in conformity with the provisions of said Act.

XV. *Licensed persons to use, in sale of liquors, standard measures.*—And be it further enacted, that every person licensed to sell exciseable liquors by retail, to be drunk or consumed in his house or premises, shall sell or otherwise dispose of all such liquors by retail therein (except in quantities less than half a pint), by the gallon, quart, pint, or half-pint measure, sized according to the standard, and shall, if required by any guest or customer purchasing such liquor, retail the same in a vessel sized according to such standard, and in default thereof he shall forfeit and pay for every such offence the illegal measure and a sum not exceeding forty shillings, to be recovered, with expenses, at the instance of any person who shall prosecute for the same, before the Sheriff or Justices of the Peace; and such penalty shall be over and above all penalties to which the offender may be liable under any other Act.

XVI. *Penalty on clerk for unduly giving or refusing certificate.*—And be it further enacted, that if any clerk of the peace or town clerk respectively shall knowingly and wilfully issue or deliver any such certificate as aforesaid, contrary to the deliverance in such book or register, or to any person not duly authorized to receive the same by the Justices or Magistrates assembled at such general or district meeting, or if any such clerk shall knowingly and wilfully insert any untrue date in any such certificate, or shall refuse to deliver such certificate to any person duly authorized as aforesaid to receive the same, every such clerk shall for every such offence forfeit the sum of twenty pounds, to be recovered, by any person who will prosecute for the same, before the Sheriff of the county, during the period of one year for which such certificate appears to have been granted or ought to have been granted, or within six months after the expiry of the said period.

XVII. *List of certificates to be sent to the excise collector of the*

district.—And be it further enacted, that within eight days next after the time during which such meetings as aforesaid may be held respectively shall have expired, the clerks of such Magistrates and Justices respectively shall transmit to the collector or supervisor of excise in the particular collection or district in which any such certificate shall have been granted, a list of all the persons there who have obtained such certificates for that collection or district for the current year, which list shall be made out from the books or registers hereinbefore appointed to be kept by such clerks respectively, and shall contain the same heads and titles, filled up according to the deliverance signed by the Justices and Magistrates assembled at the meeting ; and every such list, when so made out, shall be duly certified by the subscription of such clerks respectively, and transmitted as aforesaid ; and such clerk shall, upon the delivery thereof, be entitled to receive from such collector or supervisor as aforesaid a remuneration for his trouble in making out the same, at and after the rate of one penny for the name of each person contained in such list, to whom it has been resolved that a certificate shall be granted as aforesaid ; and if any such clerk shall refuse or neglect to make out and send such lists as aforesaid, he shall for every such offence forfeit the sum of five pounds, to be recovered, by any person authorized by the Commissioners of Excise to prosecute for it, before the Sheriff of the county, within six calendar months next after the offence has been committed.

XVIII. *No licence to be granted to any person unless he shall have obtained the Justices' certificate.*—And be it further enacted, that no licence for the sale of any exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the Commissioners of Excise, or by any officer of excise, to any person whatsoever, unless such person shall have previously obtained from the Justices a certificate under this Act, and which said certificate of such

Justices shall be retained by such person, after being produced to the Commissioners or officers of Excise; and every licence granted by the Commissioners of Excise, or by any officer of excise, contrary to this provision, shall be null and void to all intents and purposes.

XIX. *Certificates may be transferred.*—Provided always, and be it enacted, that if any person duly authorized to keep a common inn, alehouse, or victualling house as aforesaid, shall die before the expiration of the certificate to him or her in that behalf granted, it shall be lawful for any two or more of the Justices of the Peace or Magistrates of the county or royal burgh respectively, in which such house and premises are situated, to grant to the executors, representatives, or disponees of the person so dying, and who shall be possessed of such house or premises, a transfer of the certificate to keep and continue such house or premises as a common inn, alehouse, or victualling house, as before such death, until the next general or district meeting to be held under the authority of this Act; and provided also, in like manner, that if any person so authorized, or the executors, representatives, or disponees of a person dying so authorized, and who, upon such death, shall have obtained such transfer of certificate as aforesaid, shall remove from or yield up the possession of the house and premises for which such certificate shall have been granted, it shall be lawful for two or more Justices of the Peace or Magistrates respectively as aforesaid, sitting publicly in their ordinary place of meeting, to grant to any new tenant or occupier of such house and premises, upon such removal, a transfer of the certificate to keep such house and premises as a common inn, alehouse, or victualling house, as before such removal, until the next general or district meeting to be held under the authority of this Act.

XX. *Transfer of certificate to be in the form contained in the schedule.*—And be it further enacted, that the transfer

certificate to be granted on such death or removal as aforesaid shall be in the form contained in the schedule annexed to the body of this Act, and therein designated by the letter C, and shall be held on the same terms and conditions, and in the same manner, as a certificate granted at any general or district meeting, for which transfer certificate a fee of one shilling and no more shall be payable to the clerk.

XXI. *Penalties for offences against the terms of the certificate—First offence—Second offence—Third offence—Penalties may be mitigated.*—And be it further enacted, that every certificate to be granted under the authority of this Act shall be and be held on the terms, provisions, and conditions therein contained ; and in case any person or persons authorized to keep a common inn, alhouse, or victualling house under such certificate, and having excise licences for the sale of ale, beer, spirits, wine, or other exciseable liquors, to him or her in that behalf granted, shall offend against any of the terms and conditions contained in such certificate, every person so offending shall for every such offence forfeit and undergo the several penalties and disabilities hereinafter mentioned ; that is to say, for the first offence the sum of five pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within the space of fourteen days next after such conviction shall have taken place, the offender shall suffer imprisonment upon his own charges and expenses, for a period of one calendar month, in the common gaol or house of correction, unless he or she shall sooner pay such penalty, and the expenses of such conviction, and of executing the same ; and in addition to such penalty, the certificate granted to such person may be declared to be forfeited and to become void and null ; and for the second offence the offender shall forfeit the sum of ten pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within

the space of fourteen days next after such second conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expenses, for a period of two calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such second penalty, and the expenses of conviction, and of executing the same ; and in addition to such penalty, the certificate granted to such person may be declared to be forfeited and to become void and null ; and for the third offence, the offender shall forfeit the sum of twenty pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within fourteen days after such conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expenses, for a period of four calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such third penalty, and the expenses of conviction, and of executing the same ; and in addition to such penalty, the certificate granted to such person shall be declared to be forfeited and to become void and null ; and it is hereby provided and declared, that the several penalties and terms of imprisonment before mentioned may be mitigated by the Court : provided always, that by such mitigation such penalties and terms of imprisonment respectively shall not be reduced to less than one-fourth part thereof.

XXII. *What shall be deemed second and third offences.*—And be it further enacted, that if any person shall have been convicted of any breach of the terms and conditions of the certificate held by him or her in one year as a first offence, and such person shall, in the following or any subsequent year within three years after, be charged with a breach of the terms and conditions of any other such certificate subsequently obtained by such person, and be thereof convicted, such conviction shall be deemed and taken to be a conviction for a second offence ; and

so in like manner, if such person shall be again convicted within three years, it shall be deemed and taken to be a conviction for a third offence within the meaning of this Act ; and that notwithstanding of such second or third offence being in breach of other and different terms and conditions, or of other and different certificates obtained subsequently to the certificate for the breach of the conditions of which the first or second conviction took place.

XXIII. *Manner of complaint and form of procedure.*—And be it further enacted, that it shall be lawful for any person or persons to make complaint unto and before the Sheriff, or before any two or more Justices of the Peace for the county, or before the Court of any royal burgh within whose jurisdiction the person complained against shall reside, stating in such complaint that the defender is a person keeping a common inn, alehouse, or victualling house, under a certificate to him or her in that behalf granted, and selling ale, beer, spirits, wine, or other exciseable liquors by retail under excise licences, and setting forth the particular breach or breaches of the terms and conditions of the certificate complained of, and also whether it is the first, second, or third offence, as the case may be ; and thereupon the Sheriff or Bailie, or the Justices to or before whom such complaint shall have been made, shall grant a warrant to the officers of Court to summon the party complained against to appear at a time and place to be specified in such warrant and summons (such summons being served at least six free days before the diet of appearance), to attend the hearing of such complaint ; at which time and place, if the said party shall appear and plead to such charge, or in case of his or her not appearance, on proof by the oath of the constable or other officer of his having served such summons as hereinafter directed at least six free days prior to the diet of appearance, it shall be lawful for such Sheriff or Bailie, or two or more Justices of the Peace, to inquire into the truth of the

allegations in such complaint, and on the same being proved, either by the confession of the party complained against, or by the testimony on oath (or affirmation, if a Quaker) of one or more credible witness or witnesses, or upon other legal evidence, to pronounce judgment, and convict the party of the offence complained against, without any written pleadings or record of evidence ; it being hereby provided, that a record shall be preserved of the charge and of the judgment pronounced : provided always, that if such Sheriff, Bailie, or Justices shall see cause, it shall be lawful to adjourn the hearing of such complaint to a subsequent day, to be by them at that time appointed ; and it shall be lawful for any Sheriff, Bailie, or Justices, before whom proceedings shall be had for the recovery of any of the penalties before mentioned, to summon before him or them any witness or witnesses, and to require them to produce any such writings or entries as may be required for the due decision of the case before them ; and all such records, to be so preserved as aforesaid, shall be in the form contained in the schedule annexed to the body of this Act, therein designated by the letter D, or to such effect.

Note.—Records now require to be kept in conformity with the provisions of ‘The Summary Jurisdiction Acts, 1864 and 1881.’

XXIV. *Service of notice to appear.*—And be it further enacted, that when any warrant shall be issued for summoning any person to appear and answer to any complaint for committing a breach of the terms and conditions of the certificate to him or her in that behalf granted, the directing such summons to such person by the name in which such certificate shall have been granted, or by the name by which such person is or has been usually known, whether the same be the real or assumed name of such person, and the leaving a copy of the complaint and of the warrant for summoning such person, with a citation annexed, subscribed by the officer, at the house, out-

house, or premises in which the offence shall have been committed, or if admittance cannot be obtained, the affixing a copy thereof on the door or other conspicuous part of the outside of such house or premises, shall be deemed and taken to be as good, legal, and effectual a summons as if the same had been personally delivered to the party for whom such summons was intended, and to whom the same was intended to be served.

XXV. *Appeal to Quarter Sessions.*—And be it further enacted, that if any person shall consider himself or herself to be aggrieved by any judgment, whether of conviction or of absolvitor, given upon any complaint presented under this Act, by any two or more Justices of the Peace, it shall be lawful to such person to appeal therefrom to the Justices assembled at the next Quarter Sessions held for the county in which the judgment so appealed against was given, which Justices are hereby authorized and required to hear and finally adjudge such appeal: provided always, that no such appeal shall be heard, unless the appellant shall, within eight days next after such judgment, lodge his appeal with the clerk of such Justices of the Peace, and shall find caution with such clerk to abide such appeal, and to pay such sums as shall be finally awarded, and shall give intimation of such appeal by serving a copy thereof upon the opposite party within the said period of eight days.

Note.—Repealed by Statute Law Revision Act, 1873.

By the Act 39 and 40 Vict. cap. 26, there is no appeal where a certificate is refused for new premises, but there is still an appeal to Quarter Sessions when a certificate is refused to certificated premises.

XXVI. *No review to be had by a superior Court.*—And be it further enacted, that no process of review by any superior Court of the judgments to be pronounced under this Act by such Justices of the Peace, Quarter Sessions, or Sheriffs, shall

be competent, either by advocacy, suspension, reduction, or otherwise.

Note.—Repealed by Statute Law Revision Act, 1873.

Appeals are now regulated by ‘The Summary Prosecutions Appeals (Scotland) Act, 1875.’

XXVII. *Clerk of the peace to make a duplicate of the certificate when required, which shall be admitted as evidence.*—And be it further enacted, that every clerk of the peace and clerk of any royal burgh shall, when lawfully required, make out from the books to be kept by them as aforesaid a duplicate or counterpart of any certificate issued by them, for which he shall be entitled to receive a fee of one shilling ; which duplicate, being duly certified by such clerk, shall be admitted as sufficient evidence of the facts therein contained, and of the terms of such certificate, in all Courts and legal proceedings, without production of the particular certificate originally granted.

XXVIII. *Convictions under this Act to be transmitted to the clerk of the peace, and by him registered.*—And be it further enacted, that every conviction under this Act for a breach or breaches of the terms and conditions of the certificate granted under the authority of this Act shall, within six days after such conviction, be transmitted by the person who shall officiate as clerk to the Justices or Magistrates at such conviction to the clerk of the peace of the county, or town clerk of the burgh, where the party convicted shall reside, under a penalty of five pounds, to be recovered, by any person who will prosecute for the same, before the Sheriff of the county, within six months next after the time when such transmission ought to have been made ; and such clerk of the peace and town clerk respectively shall keep such convictions among the records of the county or town respectively, and shall also enter in the book or register required to be kept by them as aforesaid, and opposite to the name of the person therein entered to whom the same applies, the date of the conviction, specify-

ing therein whether the same is the first, second, or third conviction ; and the said book or register shall be produced by the clerk of the peace and town clerk at every general or district meeting of Justices and Magistrates to be held in pursuance of this Act.

XXIX. *Clerk of the peace to certify convictions to the Commissioners of Excise.*—And be it further enacted, that the clerk of the peace of every county, and the town clerk of every royal burgh, shall certify to the Commissioners of Excise in Scotland, or to the collector or supervisor of excise in the particular collection or district, the conviction of every person convicted of an offence in breach of the conditions and terms of his or her certificate, by which conviction such certificate has thereupon been adjudged null and void, which certificate of conviction shall be transmitted to the said Commissioners of Excise, or collector or supervisor, within six days next after such conviction shall have taken place, if such clerk officiated as clerk to the Justices or Magistrates at such conviction, and if such clerk did not so officiate, then within six days after such conviction shall have been transmitted to him, on pain of the said clerk of the peace, or town clerk, forfeiting for every neglect so to do the sum of five pounds, to be recovered, by any person who will prosecute for the same, before the Sheriff of the county, within six months next after the transmission by this Act ought to have been made ; and such certificate of conviction shall be in the form contained in the schedule annexed in the body of this Act, and designated by the letter E.

XXX. *Penalties for selling without certificate—First offence—Second offence—Third offence—Penalties may be mitigated—Recovery of penalties.*—And be it further enacted, that every person in Scotland, who, after the commencement of this Act, shall keep a common inn, alehouse, or victualling house, and sell ale, beer, spirits, wine, or other exciseable liquors, by retail,

to be drunk or consumed on such premises, or the places immediately adjoining the same, without a certificate to him or her in that behalf granted, according to the provisions of this Act, shall, upon his or her being convicted thereof, as hereinafter mentioned, forfeit and pay for the first offence the sum of seven pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within the space of four days next after such conviction shall have taken place, the offender shall suffer imprisonment upon his own charges and expenses, for a period of six weeks, in the common gaol or house of correction, unless he or she shall sooner pay such penalty, and the expenses of such conviction, and of executing the same ; and for the second offence the offender shall forfeit the sum of fifteen pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within the space of four days next after such second conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expenses, for a period of three calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such second penalty, and the expenses of conviction, and of executing the same ; and for the third offence, the offender shall forfeit the sum of thirty pounds, with the expenses of conviction, to be ascertained upon conviction ; and in case such penalty and expenses shall not be paid within four days after such conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expenses, for a period of six months, in the common gaol or house of correction, unless he or she shall sooner pay such third penalty, and the expenses of conviction, and of executing the same ; and it is hereby provided and declared, that the penalties and terms of imprisonment before mentioned may be mitigated by the Court ; provided always, that by such mitigation such

penalties and terms of imprisonment shall not be reduced to less than one-fourth part thereof: provided always, that such respective penalties shall be over and above any penalty or penalties which such person so convicted may have incurred or paid, or be liable to pay, for or by reason of his or her selling such ale, beer, spirits, wine, or other exciseable liquors, under any law or laws relating to the revenue of excise: and provided also, that the said penalties may be sued for and recovered before the Sheriff Court, or before any two or more of the Justices of the Peace for the county, or the Court of the royal burgh, within whose jurisdiction the offender shall reside, by any person who will inform and prosecute for the same, within six months after such offence shall have been committed; and also, that the said terms of imprisonment may be imposed by the said Courts accordingly.

Note.—The provisions of this section have been altered by Section 17 of ‘The Public Houses Acts Amendment (Scotland) Act, 1862.’

XXXI. *Persons prosecuted may be convicted on their own confession, or on the oath of one witness.*—And be it further enacted, that any person prosecuted for keeping a common inn, alehouse, or victualling house, and retailing as aforesaid, without such certificate as aforesaid, may be legally convicted thereof on his or her own confession, or on proof by the oath (or affirmation, if a Quaker) of one or more credible witness or witnesses, or other legal evidence; and all such prosecutions shall be subject to the same rules, regulations, and provisions as prosecutions for breaches of the terms of a certificate granted under or by virtue of this Act, in so far as the same are applicable thereto.

Note.—Prosecutions are now regulated by the Summary Jurisdiction Acts, 1864 and 1881.

XXXII. *Application of penalties.*—And be it further enacted, that it shall be lawful for any Sheriff, Justices, or Magistrate,

by whom judgment shall be given for any penalties under the provisions of this Act, to award any portion of the same, not in any case exceeding one moiety thereof, for the use of the prosecutor, and the remainder to the kirk treasurer of the parish within which the offence was committed, or to any public asylum or charitable institution, as the said Sheriff, Magistrate, or Justices convicting shall think proper.

Note.—Repealed by Statute Law Revision Act, 1878.

XXXIII. *Limitation of actions.*—And be it further enacted, that every action or prosecution against any Sheriff, Justice of the Peace, Magistrate, constable, or other person, on account of anything done in execution of this Act, shall be commenced within three months after the cause of action or prosecution shall have arisen, and not afterwards.

Note.—Repealed by Statute Law Revision Act, 1873.

XXXIV. *Penalty on clerk taking illegal fees.*—And be it further enacted, that if any clerk shall demand or receive any greater or additional fee, or any other reward, for anything done under this Act, than is thereby expressly authorized, or than is authorized by the schedule annexed to this Act, and designated by the letter F, such clerk so offending shall for every such offence forfeit and pay the sum of five pounds to any person who may prosecute for the same.

XXXV. *Commencement of Act.*—And be it further enacted, that this Act shall commence and take effect from and after the first day of August next after the passing of this Act.

Note.—Repealed by Statute Law Revision Act, 1873.

XXXVI. *Act may be repealed.*—And be it further enacted, that this Act may be varied, amended, altered, or repealed by any Act to be passed in this present session of Parliament.

Note.—Repealed by Statute Law Revision Act, 1873.

SCHEDULE TO WHICH THIS ACT REFERS.

(A.)—FORM OF REGISTER OF APPLICATIONS.

Nos.	Names and Designations.	Houses and Places.	Persons re- commending.	How disposed of.	Convictions and Dates thereof.
1.					
2.					

A similar form for new applications.

Deliverance.

(At the end of each day's register.)

At

May.

Numbers 2, 3, 6 (*as the case may be*) granted.

Numbers 1, 4, 5 refused.

Numbers 7, 8 continued (*or otherwise disposed of*).

G. H. P.

Note.—This schedule was repealed by the Statute Law Revision Act, 1873 ; but by the Statute Law Revision Act, 1878, it is enacted that 'So much of the form in the schedule, designated by the letter A, as prescribes the form of deliverance at the end of each day's register,' is revived.

(B.)—FORM OF CERTIFICATE.

Note.—Repealed. Superseded by form appended to 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

(C.)—TRANSFER OF CERTIFICATE.

[*Place and Date.*] WHEREAS *A. L.*, designed in the within certificate for keeping a common inn, alehouse, or victualling house, at for the retail of exciseable liquors under excise licences, has died: And whereas *M. N.*, his executor, is desirous to have the said certificate transferred to him, in order that he may carry on the said business there [*or as the case may be, in the event of removals*]: And whereas it is considered by us, two of the Justices of the Peace for the county of [*or two of the Magistrates of the royal burgh of*], that he is a person fit to be intrusted to carry on the said business there, we hereby transfer the said certificate to him accordingly, subject to all the conditions therein specified, in the same manner as if he were the person to whom it was originally granted; this certificate to be of force only until being the next general [*or district*] meeting to be held for granting such certificates; and to be duly presented for entry at the Office of Excise, within days from this date, otherwise the same to be null and void to all intents and purposes.

G. H., J.P.

M. N., J.P.

(D.)—PROCEDURE FOR BREACH OF CERTIFICATE.

Note.—Superseded by forms prescribed by 'The Summary Jurisdiction Acts, 1864 and 1881.'

(E.)—NOTICE OF CONVICTION FOR BREACH OF CERTIFICATE FOR WHICH THE CERTIFICATE HAS BEEN FORFEITED.

Unto the Honourable the Commissioners of His Majesty's Excise in Scotland, or to the Collector of Excise of Collection or District in Scotland.

This is to certify, that *C. D.* of in the county

[or royal burgh] of _____ was, on the
day of _____ in the year One thousand eight
hundred and _____ at _____ convicted before
G. H., Esquire, and *J. K.*, Esquire, two of His Majesty's
Justices of the Peace for _____ [or as the case may be],
for a breach of the conditions and terms of the certificate to
him or her in that behalf granted; and the certificate of the
said *C. D.* to keep a common inn, alehouse, or victualling
house has by the foresaid Justices been adjudged null and
void.—Given under my hand, this _____ day of _____
in the year One thousand eight hundred and _____
_____ *S. K.*, Clerk of the Peace.

(F.)—TABLE OF FEES.

Note.—Repealed by Statute Law Revision Act, 1873.

II.—THE FORBES MACKENZIE ACT.

16 AND 17 VICT. CAP. 67.

An Act for the better Regulation of Public Houses in Scotland.—
[15th August 1853.]

WHEREAS an Act was passed in the ninth year of the reign of His Majesty King George the Fourth, intituled ‘ An Act to regulate the granting of Certificates by Justices of the Peace and Magistrates, authorizing Persons to keep Common Inns, Alehouses, and Victualling Houses in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licences ; and for the better Regulation of such Houses ; and for the Prevention of such Houses

being kept without such Certificate :’ and whereas in Scotland great evils have been found to arise from the granting of certificates for spirits, wine, and exciseable liquors, to be drunk or consumed on the premises, to dealers in provisions and other such commodities ; and it is expedient that a remedy be applied to such evils, and that further provision be made for the regulating of public houses in Scotland : Be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

I. *No certificate to be granted unless with express condition that no groceries be sold on the premises.*—It shall not be lawful to the Justices of the Peace for any county or district, nor to the Magistrates of any royal burgh in Scotland, whether acting under the said recited Act or this Act, to grant any certificate for spirits, wine, or exciseable liquors to be drunk or consumed on the premises, in terms of the said recited Act, with respect to any house or premises not previously licensed, unless on the express condition that no groceries or other provisions to be consumed elsewhere shall be sold in the house or premises with respect to which such certificate is granted within the period to which such certificate applies ; and from and after the term of Whitsunday next ensuing from the passing of this Act it shall not be lawful to such Justices or Magistrates to grant any certificate, in terms of the said recited Act, with respect to any house or premises, whether previously licensed under the said recited Act or not, unless on the express condition aforesaid.

II. *Grocers may obtain certificates for the sale of porter, spirits, etc., by retail.*—Provided always, that nothing herein contained shall prevent any person or persons obtaining a certificate as a grocer, according to the schedule to this Act annexed, for the sale of porter, ale, beer, cider, or perry, or wines, spirits,

and other exciseable liquors, by retail, but not to be consumed on the premises, at the same rate as is exigible for a certificate for a public house.

III. *Certain provision of 6 Geo. IV. cap. 81, so far as regards granting licences in Scotland, repealed.*—And whereas by an Act passed in the sixth year of the reign of King George the Fourth, intituled ‘An Act to repeal several Duties payable on Excise Licences in Great Britain and Ireland, and to impose other Duties in lieu thereof, and to amend the Laws for granting Excise Licences,’ it is enacted, that no licence for the sale of any spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons who shall not have and produce a licence for the sale of beer, cider, or perry, by retail, to be drank or consumed in or upon such house or premises, in that behalf granted; and if any licence for the sale of any spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons other than as aforesaid, such licence shall be and is hereby declared to be absolutely null and void to all intents and purposes, and all and every such person or persons as aforesaid shall be subject and liable to all and every penalty and penalties imposed upon persons selling spirits or foreign wines, or sweets or made wines, or mead or metheglin, by retail, without licence: be it enacted, that the said recited enactment, so far as regards any such licence as aforesaid to be granted in Scotland after the passing of this Act, shall be and the same is hereby repealed.

Note.—Repealed by Statute Law Revision Act, 1875.

IV. *Certificate to be granted under 9 Geo. IV. cap. 58, to contain conditions that no porter, etc., be sold by retail on the premises, and no one certificate to enable persons to sell porter, etc., and spirits,*

etc.—Every certificate to be granted in terms of the said recited Act of the ninth year of the reign of King George the Fourth shall be granted under the express condition that (unless by virtue of a separate certificate) no porter, ale, beer, cider, or perry shall be sold by retail in the house or premises with respect to which such certificate is granted, within the period to which such certificate applies, or otherwise that (unless by virtue of a separate certificate) no spirits, wine, or exciseable liquors, other than porter, ale, beer, cider, or perry, shall be sold by retail in such house or premises to be consumed therein within such period ; and no one certificate shall be granted having the effect of enabling a party to obtain a licence to sell by retail, in any houses or premises, to be consumed therein, not only porter, ale, beer, cider, or perry, but also spirits, wine, and other exciseable liquors.

Note.—Repealed by Statute Law Revision Act, 1875.

V. *No certificate to be granted until premises have been inspected, and reported suitable.*—It shall not be lawful to the Justices of the Peace for any county or district, or the Magistrates of any burgh, to grant any certificate, in terms of the said recited Act and this Act, for the sale of any spirits, wine, porter, beer, cider, perry, or other exciseable liquors to be drunk on the premises, with respect to any house or premises not previously licensed, until a written report shall have been made by a Justice of the Peace for such county or district, or a Magistrate of such burgh, such Justice or Magistrate being entitled to grant a certificate, that the same are suitable and proper to be licensed, in terms of the certificate applied for, and setting forth the name of the owner of such house, accompanied with a certificate as to the applicant's character and qualification, signed by two Justices of the Peace, or two Magistrates of such burgh.

Note.—See section 8 of 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

VI. *No certificate to be granted to blacksmiths, tacksmen of tolls, or toll-gatherers, etc.*—From and after Whitsunday One thousand eight hundred and fifty-four it shall not be lawful for the Justices of the Peace for any shire or stewartry, or the Magistrates of any royal burgh, to grant to any blacksmith at his smithy, or at any house occupied by him in the immediate vicinity of the same, or to any tacksmen of tolls or toll-gatherer, or to any person occupying a house not hitherto licensed to sell exciseable liquors situated at or near to any toll bar in Scotland, any certificate to sell wine, beer, spirits, or other exciseable liquors, anything in any Act of Parliament to the contrary notwithstanding, unless such toll be situated more than six miles from any other house licensed to sell exciseable liquors within the same county.

VII. *Excise licences not to be granted without or contrary to a certificate obtained under this Act.*—No licence for the sale of any spirits, wine, porter, ale, beer, cider, perry, or other exciseable liquors, by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the Commissioners of Inland Revenue, or by any officer of excise, to any person in Scotland who shall not produce to the said Commissioners or officer a certificate, granted in terms of the said recited Act of the ninth year of the reign of King George the Fourth and of this Act, enabling the party to obtain such licence; and every such licence which shall be granted without the authority or contrary to the terms of a certificate in that behalf, shall be null and void to all intents and purposes.

Note.—Repealed by Statute Law Revision Act, 1875.

See section 5 of 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

VIII. *Licences.*—In lieu of the present licences charged for the sale of beer and spirits in Scotland, the following licences shall be charged :—

DUTIES.

Every person who shall be duly authorized by the Justices of the Peace to keep an inn, and who shall sell beer, cider, or perry by retail (whether to be drank or consumed on the premises or not), if the dwelling-house in which such person shall reside or retail beer, cider, or perry at the time of taking out such licence, shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated, under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of £10 per annum or upwards, or shall not be rented or valued at such rent or annual value, or upwards, £2 10 0

And if rated, rented, or valued as aforesaid at £10 per annum or upwards, 4 4 0

Every retailer of spirits, if the dwelling-house in which such retailer shall reside or retail such spirits (whether to be drank or consumed on the premises or not) at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated, under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of £10 per annum or upwards, or shall not be rented or valued at such rent or annual value or upwards (and which rates of licence duty shall be deemed to apply to the sale of beer together with spirits where the party obtaining such licence shall have the Justices' certificate or authority to sell both), 4 4 0

If rated at £10 and under £20, 5 5 0

If „ 20 „ 25, 9 9 0

If „ 25 „ 30, 10 10 0

If rated at £30 and under £40,	.	.	£11	11	0
If „ 40 „ 50,	.	.	12	12	0
If „ 50 and upwards,	.	.	13	13	0

IX. *Provisions of former Acts in relation to excise licences to be applied to the duties and licences under this Act.*—The said duties by this Act granted and made payable on such licences as aforesaid shall be under the management of the Commissioners of Inland Revenue, and shall be charged, raised, levied, collected, paid, and applied in such and the like manner as other duties of excise on licences may by or under any Act or Acts in force be charged, raised, levied, collected, paid, and applied; and all and every the powers, provisions, clauses, regulations, fines, forfeitures, and penalties contained in or imposed by any such Act or Acts as aforesaid, in relation to any other duties of excise on licences, shall, so far as the same are consistent with the express provision of this Act, and are not hereby repealed, be practised and put in execution in relation to the said duties hereby granted as fully and effectually as if the same were repeated and re-enacted by this Act in reference to the said last-mentioned duties.

X. *Not to alter or affect existing licence duties, or the liability of parties to take out such licences.*—Provided always, that nothing herein contained shall extend or be deemed or construed to extend to repeal, alter, or affect any duty or duties payable under any Act or Acts in force immediately before the passing of this Act, for or upon any licence to be taken out for the dealing in or retailing of wine or spirits or beer or any other exciseable liquors in any part of the United Kingdom, or the liability of any person under any such Act or Acts as aforesaid to take out any such licence, or his or her liability to any fine or penalty for omitting to take out the same.

XI. *Form of certificate.*—The forms of certificate contained in the schedule to this Act annexed shall come in place of the form of certificate provided by the said recited Act of the

ninth year of the reign of King George the Fourth; and it shall not be lawful to the Justices of the Peace for any county or district, or to the Magistrates of any burgh in Scotland, whether acting under the said recited Act or this Act, from and after the passing of this Act, to grant any certificates in any other forms than those contained in the said schedule; but it shall be lawful to such Justices or Magistrates to grant certificates in any of the forms contained in the said schedule according to the circumstances of such case; and the penalties provided by the said recited Act for contraventions of or offence against the terms, provisions, and conditions of certificates, and the recovery and application thereof, and all provisions of the said recited Act, relating to the terms, provisions, and conditions of certificates, shall apply to certificates granted under this Act: provided always, that in localities requiring other hours for opening and closing public houses, inns, and hotels than those contained in the said schedule, it shall be lawful for such Justices or Magistrates to insert in the said schedule such other hours, not being earlier than six o'clock or later than eight o'clock in the morning for opening, or earlier than nine o'clock or later than eleven o'clock in the evening for closing the same, if they shall think fit.

Note.—This section was repealed by the Statute Law Revision Act, 1875, but has been revived in part to the words 'Contained in the said schedule,' by the Statute Law Revision Act, 1878.

XII. *Certificates granted contrary to this Act null and void.*—If any certificate shall be granted contrary to the provisions of this Act the same shall be null and void to all intents and purposes.

XIII. *Excise licences taken out after 10th October 1853 to retail exciseable liquors, to expire at Whitsunday 1854—Licences taken out after Whitsunday 1854 to expire at Whitsunday next*

following.—And whereas under and by virtue of the said recited Act of the sixth year of the reign of King George the Fourth all excise licences taken out by any person or persons who shall be duly authorized by Justices of the Peace to keep a common inn, alehouse, or victualling house, and who shall take out a licence for selling beer, cider, or perry by retail, to be drunk or consumed in the house or premises, or for selling spirits or foreign wine, or mead or methaglin, are made to expire on the tenth day of October in each year : and whereas it is expedient that all such licences as aforesaid to be taken out in Scotland should be made to expire at the term of Whitsunday, being the period of the year when the certificates under which the same are granted will also expire: be it therefore enacted, that all such licences as aforesaid which shall be taken out in Scotland after the tenth day of October One thousand eight hundred and fifty-three, and before the term of Whitsunday One thousand eight hundred and fifty-four, shall be made to expire at the latter term, and shall be granted respectively, upon payment of a proportionate part of the annual duty chargeable thereon, from the day of the date to the day of the expiration thereof; and every such licence which shall be taken out in Scotland at any time after Whitsunday One thousand eight hundred and fifty-four shall expire at Whitsunday next after the granting thereof, anything in the said recited Act of the sixth year of the reign of King George the Fourth or in any other Act contained to the contrary thereof notwithstanding.

Note.—Repealed from the words ‘all such licences’ to the words ‘thereof; and,’ by Statute Law Revision Act, 1873.

XIV. *Power to police to enter public houses—Penalty.*—It shall be lawful for any police officer or constable at any time to enter into any public house, or any house where refresh-

ments are sold to be consumed on the premises ; and any person who refuses to admit or shall not admit such police officer or constable into such public house or house where refreshments are sold as aforesaid, or shall offer obstruction to his admission thereto, shall be deemed guilty of an offence ; and every person so offending shall for every such offence forfeit and pay the penalties hereinafter mentioned, that is to say, for the first offence the sum of five pounds, with the expenses of conviction, and in case such penalty and expenses shall not be paid within the space of fourteen days next after such conviction shall have taken place, the offender shall be imprisoned for a period of one calendar month unless he shall sooner pay such penalty and expenses ; and for the second and every subsequent offence, the offender shall forfeit the sum of ten pounds, with the expenses of conviction ; and in case such penalty and expenses shall not be paid within the space of fourteen days next after such second or subsequent conviction shall have taken place, then the offender shall be imprisoned for a period of two calendar months, unless he shall sooner pay such penalty and expenses ; and it is hereby provided and declared that the several penalties and terms of imprisonment may be mitigated by the Court : provided always, that by such mitigation such penalties and terms of imprisonment respectively shall not be reduced to less than one-fourth thereof.

XV. *Penalty on persons bartering or selling spirits without having obtained a certificate.*—Every person bartering or selling spirits without having obtained a certificate, and every dealer in groceries or other provisions to be consumed elsewhere than on the premises, supplying, whether gratuitously or otherwise, spirits to be consumed on the premises, shall be deemed guilty of an offence, and shall for such offence forfeit and pay the penalties provided in the thirtieth section of the said recited Act of the ninth year of King George the

Fourth, and upon default of payment thereof as therein mentioned, be imprisoned as therein provided: provided always, that any person who shall have been three times convicted of any offence against this Act shall be incapable of holding a licence for the sale of exciseable liquors in all time coming; and provided also, that every person who shall be convicted of bartering or selling spirits without having obtained a certificate shall, in default of immediate payment of the penalty imposed upon him for such offence, be liable in the discretion of the Sheriff, Bailie, or Justices by whom he shall be so convicted, to be immediately imprisoned as prescribed by the said thirtieth section of the said recited Act in the case of default of payment within four days after conviction.

XVI. *Offences to be tried, etc., under provisions of Act 9 Geo. IV. cap. 58.*—Every offence committed against this Act shall be tried and determined, and all penalties incurred under the authority of this Act shall be recovered and applied, in the manner and before the Courts, and subject to the conditions provided in the said recited Act of the ninth year of King George the Fourth; but in the case of any person complained against for bartering or selling spirits without having obtained a certificate, it shall be lawful for the Sheriff, Bailie, or Justices to or before whom such complaint shall have been made, instead of granting a warrant to the officers of Court to summon the person complained against to appear to attend the hearing of such complaint, to grant warrant for the apprehension of such person, and after such apprehension to inquire into the truth of the allegations in such complaint, and otherwise to proceed under such complaint as if such person had appeared under such a summons.

Note.—See section 18 of ‘The Public Houses Acts Amendment (Scotland) Act, 1862.’

XVII. *Interpretation of terms.*—In this Act the following words and expressions shall have the several meanings

hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say—

Words importing the singular shall include the plural number, and words importing the plural shall include the singular number :

Words importing the masculine gender shall also include females :

The word 'month' shall mean calendar month :

The expression 'public house' shall include a common inn, alehouse, victualling house, or other premises in which any exciseable liquors are sold by retail to be drunk or consumed in the premises in which the same are sold :

The expression 'inn and hotel' in certificate (No. 1) shall refer to a house containing at least four sleeping apartments set apart for the accommodation of travellers :

The word 'certificate' shall mean a certificate to a person to keep a public house in terms of the said recited Act and of this Act.

Note.—By the Statute Law Revision Act, 1878, part of this section from the expression 'inn and hotel' to 'travellers,' has been repealed.

See section 37 of 'The Public Houses Acts Amendment (Scotland) Act, 1862,' for interpretation of 'inn and hotel.'

XVIII. *Repeal of former statutes so far as inconsistent with this Act.*—The said recited Acts, and all other statutes, laws, and usages, shall be, and the same are hereby repealed in so far as is inconsistent with the provisions of this Act, but no farther or otherwise.

Note.—Repealed by Statute Law Revision Act, 1875.

SCHEDULE.

FORMS OF CERTIFICATES.

Note.—Repealed by Statute Law Revision Act, 1875.
Superseded by 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

FORM OF REGISTER OF APPLICATIONS.

Nos.	Names and Designations of Applicants.	I. For Inns and Hotels, and where situated.	II. For Public Houses, and where situated.	III. For Dealers in Spirits, Groceries, and Provisions.	Persons recommending Applicants.	How disposed of.	Convictions and Dates thereof.
1.							
2.							

Note.—See section 10 of 'The Public Houses Acts Amendment (Scotland) Act, 1862,' and Schedule C appended thereto.

III. — THE PUBLIC HOUSES ACTS AMENDMENT ACT, 1862.

25 AND 26 VICT. CAP. 35.

An Act to amend the Acts for the Regulation of Public Houses in Scotland.—[7th July 1862.]

WHEREAS an Act was passed in the ninth year of the reign of his Majesty King George the Fourth, intituled ‘An Act to regulate the granting of Certificates by Justices of the Peace and Magistrates, authorizing Persons to keep Common Inns, Alehouses, and Victualling Houses in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licences; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate;’ and another Act was passed in the sixteenth and seventeenth years of the reign of her present Majesty, intituled ‘An Act for the better Regulation of Public Houses in Scotland:’ and whereas it is expedient to amend the said Acts, and to make provision for more effectually preventing the sale of exciseable liquors without certificate and licence, and for other purposes relating thereto: be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

I. *Regulating period for granting certificates.*—The Magistrates of burghs shall meet for granting and renewing certificates for the sale of exciseable liquors within the bounds of such burghs upon the second Tuesday of April and the

third Tuesday in October in each year, and the Justices of the Peace for the several counties or districts shall meet for granting and renewing certificates for the sale of exciseable liquors within such several counties or districts on the third Tuesday of April and the last Tuesday of October in each year; and it shall be lawful for such Magistrates and Justices respectively to adjourn such meetings from time to time, as they shall think fit, during the period of one month next after the day of their first meeting, but no longer.

II. *Forms of certificates—Penalties for breaches of certificate.*

—The forms of certificates contained in Schedule (A) to this Act annexed shall come in place of the forms of certificates provided by the recited Acts or either of them; and it shall be lawful for the Justices of the Peace for any county or district, or the Magistrates of any burgh, where they shall deem it inexpedient to grant to any person a certificate in the form applied for, to grant him a certificate in any other of the forms contained in the said schedule: provided always, that in any particular locality within any county or district or burgh requiring other hours for opening and closing inns and hotels and public houses than those specified in the forms of certificates in said schedule applicable thereto, it shall be lawful for such Justices or Magistrates respectively to insert in such certificates such other hours, not being earlier than six of the clock, or later than eight of the clock in the morning for opening, or earlier than nine of the clock, or later than eleven of the clock in the evening for closing the same, as they shall think fit: and the penalties and forfeitures provided by the recited Acts, or either of them, for breaches of or offences against the terms, provisions, and conditions of certificates, shall apply to breaches of, or offences against the terms, provisions, and conditions of certificates granted under this Act.

III. *Certificates for the sale of spirits and wine to include*

authority to sell porter, ale, beer, etc.—Every certificate to be hereafter granted for the sale by retail in any house or premises of spirits or wine shall include an authority for the sale by retail in such house or premises of porter, ale, beer, cider, and perry, and such certificate shall have the effect of enabling the party in favour of whom the same shall have been granted to obtain any licence or licences for such purposes: provided always, that nothing herein contained shall be held to prevent the Justices or Magistrates from granting a certificate in any of the forms in the said schedule contained for the sale by retail of wine, porter, ale, beer, cider, or perry, or of porter, ale, beer, cider, or perry only.

IV. *Certificates granted contrary to this Act void.*—If any certificate shall be granted contrary to the terms and provisions of this Act the same shall be null and void to all intents and purposes.

V. *Licences not to be granted without a certificate obtained under this Act.*—No licence for the sale of spirits, wine, porter, ale, beer, cider, perry, or other exciseable liquors by retail, whether to be drunk or consumed on the premises of the person licensed or not, shall be granted by the Commissioners of Inland Revenue, or by any officer of Inland Revenue, to any person in Scotland who shall not produce to the said Commissioners or officer a certificate granted in terms of this Act, enabling the party to obtain such licence; and every licence which shall be granted contrary to the terms of this Act shall be null and void to all intents and purposes.

VI. *Chief Magistrate or Justices on special occasions may grant permission to keep houses, etc., open during particular times.*—On a representation being made to the chief Magistrate, or failing him the two senior acting Magistrates of any burgh, or to any two Justices of the Peace of any county respectively by any person holding a certificate for keeping an inn and hotel,

or public house, and duly licensed to sell exciseable liquors to be consumed on the premises, that it is intended that any public or special entertainment shall take place therein, or in any other place or premises situated within the respective jurisdictions of such chief Magistrate or Magistrates or Justices, during any particular time, such chief Magistrate or Magistrates or Justices, as the case may be, may, if he or they shall think fit, and on being satisfied that such inn and hotel, or public house, place, or premises possesses the necessary accommodation, and that the entertainment is for a public or special occasion of a legitimate and proper character, and not originating directly or indirectly with the person holding such certificate, grant such person a special permission in writing to keep such inn and hotel, or public house, place, or premises open, and to sell therein, on such public or special occasion, and for that purpose only, such exciseable liquors as he may be duly licensed to sell as aforesaid during such time, and beyond the hour prescribed by his certificate for closing, *Sunday* excepted, and under such regulations as such chief Magistrate or Magistrates or Justices of the Peace shall think fit to appoint: provided always, that such Magistrate or Magistrates or Justices are entitled to grant certificates, and that such Justices are also heritors of or resident in the parish in which such inn and hotel, public house, place, or premises shall be situated, or, where there shall be no such Justices heritors of or resident in such parish, heritors of or resident in some next adjacent parish; and it shall be lawful for the Justices of the Peace of any county or district, or for the Magistrates of any burgh, at any April half-yearly meeting for the granting and renewal of certificates, to make such general regulations touching such permissions as they shall think fit, and such special permissions shall be subject to such general regulations: and provided further, that the

person obtaining such special permission shall lodge the same with the superintendent or other chief officer of police of the district at least twenty-four hours before the commencement of such public or special entertainment, and such superintendent or chief officer of police shall furnish such person with a certified copy thereof, which shall be shown to any officer of police or constable requiring to see the same: and provided also, that the party holding such special permission shall also have obtained an occasional excise licence in that behalf.

VII. *Persons holding licences for the sale of table beer to be subject to the same conditions as persons holding certificates.*—Whereas by an Act passed in the last session of Parliament, intituled ‘An Act for granting to Her Majesty certain Duties of Excise and Stamps,’ it is enacted, ‘that it shall be lawful for any person to take out a licence for the sale in any house or shop of table beer at a price not exceeding one penny halfpenny the quart, and not to be drunk or consumed on the premises where sold, and that it shall not be necessary to the obtaining of such licence that the said house or shop shall be rated to the relief of the poor to any amount, or that the person applying for such licence shall produce any certificate, or enter into any bond required by any Act relating to the sale of beer by retail:’ and whereas it is expedient that provision should by this Act be made for the proper and orderly regulation of the houses, shops, and premises kept by such persons: be it therefore enacted, that every such licence shall be held by the person who shall have obtained the same on the terms, provisions, and conditions following, viz. that he shall not knowingly permit any breach of the peace or riotous or disorderly conduct within his premises, or supply liquors to persons in a state of intoxication, and shall not sell or give any such table beer to be drunk or consumed on the said premises;

and shall not sell or give out therefrom any such table beer before eight of the clock in the morning, or after eleven of the clock at night of any day ; and shall not open his premises for the sale of any table beer, or any goods or commodities whatsoever, or sell or give out the same on Sunday ; and lastly, shall maintain good order and rule within his premises ; and in case any person holding any such licence shall offend against any of the said terms, provisions, and conditions, every person so offending shall for every such offence forfeit and undergo the several penalties provided by the twenty-first section of the herein first-recited Act for the punishment of offences against the terms and conditions of certificates ; and in addition to such penalties the licence granted to such person may be declared to be forfeited and to become null and void ; and every such offence shall be prosecuted, tried, and determined in the same manner, and before the same Courts, and subject to the same conditions, as breaches of certificate or offences against the terms and conditions thereof may be prosecuted, tried, and determined.

Note.—See section 17 of Act 39 and 40 Vict. cap. 26.

VIII. *Form of applications for certificates.*—If any person shall be desirous of keeping an inn and hotel, public house, shop, or premises for the sale therein of spirits, wine, beer, or other exciseable liquors, whether to be consumed on the premises or not, he shall, previous to the granting to him of a certificate for that purpose, or the renewal of any such certificate already granted, truly fill up an application for such certificate in the form contained in the first part of Schedule (B) to this Act annexed, and shall truly answer the several queries therein contained ; and printed forms for such application shall be supplied to the applicant by the clerk of the peace for the county or district, or the town clerk of the burgh in which such inn and hotel, public house, shop, or

premises shall be situate, upon payment to him of a fee of sixpence for each copy thereof; and every such application shall be filled up in a fair and legible hand, and shall be signed by the applicant or his agent thereunto authorized, and shall be lodged by the applicant with such clerk of the peace, or town clerk, as the case may be, fourteen days at least before the general meeting of the Justices of the Peace or Magistrates for granting and renewing certificates: provided always, that it shall not be lawful for the Justices of the Peace of any county or district, or the Magistrates of any burgh, to entertain any application for any certificate for the sale of exciseable liquors with respect to any house or premises not licensed, and for which there is no certificate at the time of making such application, until a report shall have been made and subscribed by a Justice of the Peace for such county or district, or a Magistrate of such burgh respectively, such Justice or Magistrate being entitled to grant certificates, stating that the same are of suitable construction and accommodation for the purpose applied for, and accompanied with a certificate as to the applicant's character and qualification, signed by a Justice of the Peace for such county or district, or a Magistrate of such burgh, and which said report and certificate respectively shall be in the form, or, as nearly as may be, in the form contained in the second part of Schedule (B) to this Act annexed: provided also, that the Justices in Quarter Sessions, to whom any appeal shall be made from a deliverance, granting or refusing any application for a certificate, may by themselves, or any one or more of their number, inspect the premises for which a certificate is applied, and review the said report.

IX. *Certificate of character and qualification not necessary with application for renewal of certificate.*—Where any person shall be desirous of obtaining a renewal of any subsisting certificate, granted to him in terms of this Act, which has

not been transferred during the current half-year, it shall not be necessary that he produce along with his application any recommendation or certificate of character and qualification: provided always, that such exemption shall not be held to interfere with the powers of Justices and Magistrates under the said recited Acts or this Act to deal with such application.

X. *List of new applications for certificates to be published—Power to Justices, etc., to cause descriptive lists to be printed of persons to whom certificates have been granted.*—The clerk of the peace of every county or district, and the town clerk of every burgh, shall, at least ten days before the general meeting of the Justices of the Peace, or the Magistrates, as the case may be, for the granting and renewal of certificates for the sale of exciseable liquors, make out and advertise, at least twice in one or more newspapers printed, or generally circulated in the district, a complete list, in the form, or as nearly as may be in the form, set forth in Schedule (C) to this Act annexed, of all applications for certificates within their respective bounds for premises not at the time certificated; and of all applications by new tenants or occupants of premises at the time certificated; and also of all applications for renewal of certificates which have been transferred during the currency of the previous half-year; and such clerks of the peace shall also, within the said time, transmit by post, with postage prepaid, to the registrar or registrars of every parish within their respective counties or districts, a copy of the list of such applications in so far as applicable to the parish of such registrar or registrars, who are hereby required to preserve the same, and to give access thereto to any party applying for inspection thereof upon payment of a fee of one shilling for such inspection: and it shall be lawful for the Justices of the Peace of any county or district, or the Magistrates of any burgh, at any

April half-yearly meeting for the granting and renewal of certificates, if they shall think fit, to cause a descriptive list of persons to whom certificates shall have been granted for the year next ensuing, with the premises to which such certificates apply, within their respective jurisdictions, to be made up and printed, in such form as they shall direct, for the use of themselves and others concerned in the execution of the said recited Acts and this Act, the expense whereof shall be paid out of the respective funds in this Act specified into which penalties and expenses shall be paid.

XI. *Certain parties may object to the granting or renewal of certificates.*—Any person, or the agent of any person, owning or occupying property in the neighbourhood of the house or premises, in respect of which any certificate or renewal of any certificate shall be applied for, may object to the granting or renewal of such certificate by lodging at any time, not less than five days before the general meeting of the Justices of the Peace, or Magistrates of the county, district, or burgh, for the granting and renewal of certificates, where such house or premises shall be situated, with the clerk of the peace, or town clerk, as the case may be, a notice in writing to that effect, signed by such person, or his agent, specifying the grounds of such objection, which objection shall be heard at the then ensuing general meeting; and if such objection shall be considered of sufficient importance by the Justices of the Peace, or Magistrates in such general meeting, and shall be proved to their satisfaction, the said certificate shall not be granted or renewed: provided always, that no such objection shall be entertained unless it shall be proved or admitted that the person so objecting, or his agent did, at least five days before such general meeting, deliver, or cause to be delivered to the person applying for such certificate a copy of the aforesaid notice, or did forward to him by post, with postage prepaid, or did leave for him a copy thereof, addressed

to him at his place of abode mentioned in his application, or in the case of an application for the renewal of any certificate at the licensed premises for which the application is made ; and it shall be lawful for the Justices of the Peace, or Magistrates respectively, in the event of their considering the allegations and objections against a renewal of a certificate contained in any such notice, frivolous, or vexatious, or unauthorized, to find the person or agent, as the case may be, making the same liable in such expenses as they shall deem proper, and the amount of the expenses so found due shall be recoverable in the Sheriff's or Justices of the Peace Small Debt Court having jurisdiction in the district ; and a certified copy of the aforesaid finding shall be sufficient evidence and authority for decerning for the amount thereof with expenses.

XII. *Justices or Magistrates at general meetings may hear objections to granting certificates.*—It shall be lawful for the Justices of the Peace of any county or district, or for the Magistrates of any burgh, at any general meeting for the granting and renewal of certificates held within their respective jurisdictions, to hear and determine as at present, and without the notice required by section 11, any objections to be made verbally or in writing by any Justice of the Peace or Magistrate, or by the procurator-fiscal, chief constable, or superintendent of police, against the granting or renewing of any certificate.

XIII. *Power to constables, etc., to enter eating houses, etc., if they believe exciseable liquors are trafficked in.—Penalty for obstructing officers of police, etc.*—It shall be lawful for any chief constable, superintendent, lieutenant, or inspector of police at any time, to enter and inspect any eating house, toll-house, temperance hotel, shop, or other place, or any boat or vessel, where food or drink of any kind is sold to be consumed on the premises, or in which he shall have reason to believe that

exciseable liquors of any kind are being unlawfully trafficked in; and it shall also be lawful for any constable of police having an authority in writing from any Justice of the Peace or Magistrate, or from any chief constable, superintendent, lieutenant, or inspector of police, in any county, district, or burgh, and which they are severally hereby authorized to grant, to enter and inspect any such eating houses, toll-houses, temperance hotels, shops, or places, or any such boats or vessels, within such county, district, or burgh respectively, at any time or times within eight days from the date of such writing, as may be specially mentioned in such writing; and any person who shall refuse to admit, or shall not admit such officer of police or constable into any such eating house, temperance hotel, shop, or other place, boat or vessel, or shall offer obstruction to his admission thereto, shall thereby be guilty of an offence, and may be apprehended on a warrant to that effect, granted by the Sheriff or by any one Justice of the Peace or Magistrate, and on being convicted thereof shall forfeit and pay a penalty not exceeding ten pounds, and failing immediate payment shall be imprisoned for a period not exceeding sixty days: and it shall be lawful for any officer of police or constable of any county, district, or burgh, without any written authority, at any time to enter and inspect any licensed inn and hotel or public house therein situated, and also, where he shall have reason to believe that a breach of certificate is being committed, at any time without written authority to enter and inspect the premises of any grocer or provision dealer trading in exciseable liquors; and any person who shall refuse to admit, or shall not admit such officer of police or constable into such licensed inn and hotel, public house, or premises, or shall offer obstruction to his admission thereto, shall thereby be guilty of an offence, and on being convicted thereof shall forfeit and pay a penalty not exceeding ten pounds, and failing immediate payment of

such penalty shall be imprisoned for a period not exceeding sixty days.

XIV. *Police to report persons licensed, from whose premises persons in a state of intoxication have been seen frequently to issue, or against whom there is other cause of complaint.*—The chief officer of police of every county, district, place, and burgh in Scotland shall, on the first lawful day of every week, transmit or cause to be transmitted to the procurator-fiscal appointed by the Justices of the Peace of such county or district, or procurator-fiscal appointed by the Magistrates of such burgh, respectively, a written report containing the names of all persons licensed to sell exciseable liquors by retail from whose premises persons in a state of intoxication have been frequently seen to issue, and of the manner in which any special permission granted in virtue of this Act has been exercised, and such reports shall be brought by such procurator-fiscal under the consideration of the Justices of the Peace and Magistrates of every such county and burgh respectively when assembled to grant and renew certificates: provided always, that within two days after such report shall have been lodged with such procurator-fiscal notice in writing, by post, with postage prepaid, shall be sent by him, addressed to each licensed person at his licensed premises, of his having been so reported on; and such chief officer of police shall also, without undue delay, report to the procurator-fiscal or other party by this Act directed to prosecute offenders, all offences committed against the recited Acts and this Act, or any of them, coming to his knowledge, and shall at all times use the means within his control for the detection, and, when necessary, the apprehension of all offenders.

XV. *Permitting drinking exciseable liquors in a neighbouring house, shed, etc., with intent to evade the provisions of the Act to be deemed drinking on the premises.*—If any person licensed to sell, by retail, any exciseable liquors, not to be consumed on

the premises, shall take or carry, or authorize or permit or suffer to be taken or carried, any such exciseable liquors out of or from the house, shop, or premises of such licensed person, for the purpose of being sold or hawked on his account, or for his benefit or profit, or for the purpose of being drunk or consumed for his benefit or profit in any other house, or in any tent, shed, or other premises, of any kind whatever, belonging to such person, or hired, used, or occupied by him, or in which he may be interested, such exciseable liquors shall be deemed and taken to have been drunk or consumed upon the premises of the person so licensed, and such person shall be deemed guilty of a breach of his certificate, and shall be liable in the penalties and expenses and forfeitures for such offence, as by the recited Acts and this Act provided.

XVI. *Persons hawking exciseable liquors may be apprehended, and on conviction to be fined or imprisoned.*—Every person hawking spirits or other exciseable liquors shall thereby be guilty of an offence, and may be taken into custody by any constable or officer of police, or, in the absence of any constable or officer of police, by any person whomsoever, and may be detained in any police office or station-house, or other convenient place, and not later than in the course of the first lawful day after he shall have been so taken into custody shall be brought before a Justice of the Peace or Magistrate, or if not so taken into custody, or if he shall have been liberated on bail or pledge, may be summoned to appear before a Justice of the Peace or Magistrate, and on being convicted of such offence shall forfeit and pay a penalty not exceeding ten pounds, and in default of immediate payment shall be imprisoned for a period not exceeding sixty days.

XVII. *Penalty on persons trafficking in exciseable liquors without a certificate.*—Every person trafficking in any spirits or other exciseable liquors in any place or premises without

having obtained a certificate in that behalf in terms of this Act shall be guilty of an offence, and on being convicted thereof shall for each such offence forfeit and pay the full penalties provided in the thirtieth section of the said first-recited Act, together with the expenses of prosecution and conviction: and in default of immediate payment thereof shall be imprisoned for the entire periods respectively, prescribed by the said thirtieth section of the said first-recited Act: provided always, that the penalty and term of imprisonment thereby provided for a third offence shall likewise be imposed in the case of every subsequent offence.

XVIII. *Sheriff, Magistrate, or Justice may grant warrant to summon, and warrant to apprehend.*—In the case of any person complained of for any offence against the recited Acts or this Act, excepting for breach of certificate, it shall be lawful for any Sheriff, or any one Justice or Magistrate, to or before whom such complaint shall have been presented, unless by this Act otherwise provided, to grant warrant for summoning the person complained of, upon an induciæ of not less than forty-eight hours, to appear to answer to such complaint at a time and place to be therein specified; and in the case of any person complained of for trafficking in spirits or other excisable liquors in any place or premises without having obtained a certificate in that behalf, it shall be lawful for any Sheriff or any one Justice or Magistrate, if he shall see fit, instead of granting warrant to summon such offender, to grant warrant to apprehend such offender to answer to the complaint, and to be further dealt with as is provided by said recited Acts and this Act.

XIX. *Proof of trafficking in any shebeen—Persons found in shebeens drunk or drinking may be taken into custody.*—In order to warrant the conviction of any person for trafficking in any spirits or other excisable liquors in any place or premises without a certificate in that behalf, it shall be sufficient, in the

absence of contrary evidence, to prove that some person other than the owner or occupant of such place or premises shall at the time charged have been found in such place or premises drunk or drinking, or having had drink supplied to him therein, and that such place or premises is or are by repute kept as a shebeen, or at the time charged contained drinking utensils and fittings usually found in houses licensed for the sale of exciseable liquors ; and every person found in any shebeen drunk or drinking shall thereby be guilty of an offence, and may at the time be taken into custody by any officer of police or constable, and detained in any police office or station-house, or other convenient place, and not later than in the course of the first lawful day after he shall be so taken into custody, shall be brought before a Justice of the Peace or Magistrate, or if not so taken into custody, or if he shall have been liberated on bail or pledge, may be summoned to appear before a Justice of the Peace or Magistrate, and on being convicted of such offence shall forfeit and pay a penalty not exceeding ten shillings, and in default of immediate payment thereof shall be imprisoned for a period not exceeding ten days.

XX. *Warrant may be granted to seize exciseable liquors found in unlicensed premises—Penalties.*—It shall be lawful for any Justice of the Peace of any county or district, or Magistrate of any burgh, upon being satisfied by the personal examination on oath of a credible witness that there is reasonable ground for believing that exciseable liquors are trafficked in within any house or other premises within such county or burgh, as the case may be, not licensed for the sale thereof, or by any person not having a licence to sell exciseable liquors in or at such house or premises, or that such liquors are illegally kept for sale or for the purpose of being trafficked in at such house or premises, to grant warrant under his hand authorizing any chief constable, superintendent,

lieutenant, inspector, or sergeant of police, with any police officers or constables to enter such house or place at all times, and to search for exciseable liquors, and if the same be found in such house or place, exceeding one gallon, to seize such exciseable liquors, together with the vessel or vessels in which the same are contained; and such warrant shall continue in force for one month from the date thereof, and shall be a sufficient authority to the chief constable, superintendent, lieutenant, inspector, or sergeant of police therein named, and their assistants respectively, to enter into such house or place and seize all such liquors as aforesaid, and the vessels containing the same, and to carry away and retain the same until disposed of as hereinafter provided: and the person occupying or using the premises where such liquors shall be found as aforesaid, shall thereby be guilty of an offence, and on being convicted thereof shall forfeit and pay for the first offence a penalty not exceeding five pounds nor less than two pounds, and in default of immediate payment shall be imprisoned, with or without hard labour, for any term not exceeding thirty days nor less than ten days, and for the second and every subsequent offence a penalty not exceeding ten pounds nor less than five pounds, and in default of immediate payment shall be imprisoned, with or without hard labour, for any term not exceeding sixty days nor less than thirty days: and all such exciseable liquors and the vessels containing the same so seized as aforesaid shall be forfeited and sold, without further warrant, and the proceeds of such sale shall be paid into the Rogue Money Funds of the county or police funds of the burgh, and where there are no police funds, into the corporation funds of the burgh, as the case may be, in which the premises in which such liquors shall have been found are situate.

XXI. *Penalty on disorderly persons refusing to quit licensed houses on request.*—Every person who shall be riotous, quarrel-

some, or disorderly in any shop, house, premises, or place licensed for the sale of spirits, wine, porter, ale, beer, or other exciseable liquors by retail, whether to be consumed on the premises or not, and shall refuse or neglect to quit such shop, house, premises, or place upon being requested so to do by the occupier or manager thereof, or his agent or servant, or by any constable, and every person who shall refuse to quit such shop, premises, or place at the time of closing prescribed by this Act, on being required to do so as aforesaid, shall thereby be guilty of an offence, and may be taken into custody by any officer of police or constable, and detained in any police office or station-house, or other convenient place, and not later than in the course of the first lawful day after he shall have been so taken into custody, shall be brought before a Sheriff, or any one Justice of the Peace or Magistrate, or if not so taken into custody, or if he shall have been liberated on bail or pledge, may be summoned to appear before a Sheriff, or any one Justice of the Peace or Magistrate, and on being convicted of such offence shall forfeit and pay a penalty not exceeding forty shillings, and in default of immediate payment shall be imprisoned for a period not exceeding twenty days; and all constables are hereby authorized and empowered to assist in expelling such riotous, quarrelsome, or disorderly person refusing to quit the premises at the hour of closing from such shops, houses, premises, and places.

XXII. *Persons falsely representing themselves to be travellers liable to a penalty.*—Every person who by any wilfully false representation shall induce any inn and hotel keeper, or the servant of any inn and hotel keeper, to sell or give out to him exciseable liquors on any Sunday, or to sell or give out to him exciseable liquors on any other day during hours when the sale of exciseable liquors, excepting to lodgers or travellers, is prohibited by the certificate of such inn and

hotel keeper, shall thereby be guilty of an offence, and on being convicted thereof by any Sheriff, or any one Justice of the Peace or Magistrate, shall forfeit and pay a penalty not exceeding five pounds, and in default of immediate payment shall be imprisoned for a period not exceeding thirty days.

XXIII. *Penalty to persons found intoxicated and incapable of taking care of themselves.*—Every person found in a state of intoxication, and incapable of taking care of himself, and not under the care or protection of some suitable person, in any street, thoroughfare, or public place, shall be thereby guilty of an offence, and may be taken into custody by any officer of police or constable, and detained in any police office or station-house, or other convenient place, and not later than in the course of the first lawful day after he shall have been so taken into custody shall be brought before a Sheriff, or any one Justice of the Peace or Magistrate, or if not so taken into custody, or if he shall have been liberated on bail or pledge, may be summoned to appear before such a Sheriff, Justice of the Peace, or Magistrate, and on being convicted of such offence shall forfeit and pay a penalty of five shillings, and in default of immediate payment shall be imprisoned for a period not exceeding twenty-four hours.

XXIV. *Penalty for harbouring constables while on duty.*—Every person licensed to sell spirits, wine, porter, ale, beer, cider, perry, or other exciseable liquors by retail, whether to be drunk or consumed on the premises or not, who knowingly harbours or entertains, or suffers to remain in the licensed premises wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbances or restoring order, or otherwise in the discharge of his duty, shall be guilty of an offence, and on being convicted thereof shall forfeit and pay a penalty not exceeding five pounds, and in default of

immediate payment shall be imprisoned for a period not exceeding thirty days.

XXV. *Procurator-fiscal or other party appointed shall prosecute—Application of penalties and expenses.*—Every person who, after the passing of this Act, shall commit any breach of certificate, or who shall in any other manner offend against either of the recited Acts or this Act, shall be prosecuted, and all penalties, together with the expenses of prosecution and conviction to be ascertained on conviction, shall be recovered, unless by this Act otherwise specially directed or authorized, before the Sheriff or any two or more Justices of the Peace of the county, or any Magistrate of the burgh having jurisdiction in the county or burgh, as the case may be, in which such offender shall reside or such offence shall have been committed, at the instance of the procurator-fiscal, or of such other party as shall be specially appointed to prosecute such class of offences by the Justices of the Peace of the county in general Quarter Sessions assembled, or the Magistrates of the burgh, as the case may be, and which appointment they are hereby specially authorized to make, and such Justices of the Peace in general Quarter Sessions, or Magistrates, as the case may be, shall from time to time fix a reasonable sum in name of salary, or a reasonable rate of remuneration by fees for prosecutions, and all other business under this Act, to be paid annually to such procurator-fiscal or other party appointed to prosecute as aforesaid ; and which salary, or the amount of the account of such fees, as the same shall be taxed by the clerk of the peace of the county or district, or the town clerk of the burgh, as the case may be, together with all necessary and proper outlays attending such prosecutions, and also the execution of the recited Acts and this Act, shall form a proper charge against, and shall be paid annually out of the Rogue Money, or other fund of the county out of which the expenses of criminal prosecutions are in use

to be paid, and in burghs out of the police funds, or, where there are no police funds, out of the corporation funds of the burgh, as the case may be ; and all penalties and expenses of prosecutions and convictions incurred under and imposed by the recited Acts and this Act shall, when recovered, if adjudged by any Sheriff, or Justice or Justices of the Peace, or Magistrate of any burgh or place other than a royal or parliamentary burgh, be wholly paid into the Rogue Money Fund of the county, and, if adjudged by any Magistrate or police judge of any royal or parliamentary burgh, be wholly paid into the police funds, or, where there shall be no police funds, into the corporation funds of the burgh in which such penalties shall be imposed respectively.

XXVI. *Offences how to be tried.*—Every offence committed against the recited Acts and this Act, or any of them, may, except where inconsistent with the provisions and conditions of this Act, be tried and determined in a summary manner, without any written pleadings, or record, or notes of evidence, and before the Courts, and subject to the provisions and conditions provided in the said recited Acts or either of them ; but in any prosecution under the recited Acts and this Act, or any of them, the complaint and procedure following thereupon shall be in the form, or as nearly as may be in the form, provided by Schedule (D) to this Act annexed ; and it shall be lawful for the Sheriff, Justice or Justices, Magistrate or Magistrates, before whom such prosecution is brought, to proceed in absence of the accused, upon proof by the oath of an officer or constable that the accused has been duly summoned, or to issue his or their warrant for apprehending and bringing the accused before him or them, as the case may be.

Note.—Prosecutions are now regulated by the Summary Jurisdiction Acts, 1864 and 1881.

XXVII. *Power to Justices or Magistrates to summon witnesses*

—Punishment of witnesses refusing to attend or prevaricating.—It shall be lawful for any Justice of the Peace or Magistrate, in any application for the granting or renewing of a certificate under the provisions of the recited Acts or this Act, or in dealing with any objection to such applications, or in any other matter arising under the provisions of the said recited Acts and this Act, or any of them, to grant warrant to summon witnesses and havers on behalf of any party interested ; and it shall be lawful for the Justice or Justices of the Peace, Magistrate or Magistrates, before whom respectively any such application, objection, or matter shall be depending, to **examine** all such witnesses and havers on oath or solemn affirmation, and to do and perform all things **necessary** for the due and proper hearing and **determination** of the cause or matter ; and any person **summoned** as a witness or as a haver to appear before any Sheriff, Justice or Justices of the Peace, or Magistrate, touching any matter arising out of the recited Acts or this Act, either on the part of the complainant or of the person complained against, or of any person interested in such matter, who shall neglect or refuse to appear at the time and place for that purpose appointed, and who shall not make such reasonable excuse for such neglect or refusal as shall be admitted and allowed by such Sheriff, Justice or Justices, or Magistrate, may, when it shall be proved on oath that he has been duly summoned at least twenty-four hours before the meeting of the diet of the Court, be apprehended and committed to prison under the warrant of the said Sheriff, Justice or Justices, or Magistrate, till he finds security to appear and give evidence ; and any person who shall so neglect or refuse to appear, or who appearing shall refuse to be examined on oath or solemn affirmation, shall thereby be guilty of an offence, and on being convicted thereof shall forfeit and pay any sum not exceeding five pounds, and in default of immediate payment shall be imprisoned for a period not exceeding thirty

days ; and if any person who, under examination on oath or solemn affirmation before any Sheriff, Justice or Justices, or Magistrate, in any matter arising under the provisions of the said recited Acts or this Act, shall prevaricate or wilfully conceal the truth, it shall be lawful to such Sheriff, Justice or Justices, or Magistrate, in open Court, without any formal complaint and in a summary manner, to adjudge the person so offending to be imprisoned for any period not exceeding sixty days, or to forfeit and pay a penalty not exceeding five pounds, and in default of immediate payment to be imprisoned for a period not exceeding thirty days, and the sentence awarding such punishment shall set forth shortly the nature of the offence.

XXVIII. *Power to adjourn trials and detain offenders.*—It shall be lawful for the Justice or Justices of the Peace, Sheriff, or Magistrate before whom any person may be brought for trial for any offence against the recited Acts and this Act, or any of them, to adjourn the hearing of the complaint from time to time as may be deemed necessary, and also, if considered fit, to order the detention of such person in prison, or in any police office or station-house, till the next diet of Court, unless bail is found, or a pledge given to an amount not exceeding the maximum penalty concluded for.

XXIX. *Offences may be prosecuted at common law.*—Nothing contained in the recited Acts or this Act shall prevent anything done which may be an offence under this Act, but which might have been prosecuted and punished as an offence at common law, or under any other Act if this Act had not passed, from being so prosecuted and punished as if this Act had not passed.

XXX. *Offences may be tried in police courts*—*Offences specified in Sections 16, 19, 21, and 23 of this Act may be tried in police courts.*—For the purpose of trying offences against the recited Acts and this Act, or any of them, except in cases of breach of

certificate and of imposing penalties and declaring forfeitures under the same, the expressions 'Magistrate of any burgh,' 'Magistrate,' and 'Magistrates,' shall include any judge officiating in any Court for the trial of police offences under the provisions of any local or general Police Act; and all such offences committed within the jurisdiction of any such judge may be tried by and before him in any such Court, at the instance of the procurator-fiscal or other party acting as prosecutor under the twenty-fifth section of this Act; and every person offending against the sixteenth, nineteenth, twenty-first, and twenty-third sections of this Act may, if such procurator-fiscal or prosecutor shall choose so to do, be prosecuted before the Court, and in the manner provided for the trial of police offences by any general or local Police Act in force in the county, district, or burgh or place where the offender shall reside or the offence shall have been committed, instead of as herein otherwise provided.

XXXI. *Warrants, etc., may be enforced in other counties, etc.*—All warrants, orders, interlocutors, judgments, sentences, and decreets of Sheriffs, Justices, and Magistrates, issued or pronounced under the authority of the recited Acts or of this Act, may be executed and enforced in any county, district, burgh, or jurisdiction other than that in which they were so issued or pronounced, provided the concurrence of the Sheriff or any one Justice of the Peace or Magistrate of such other county, district, burgh, or jurisdiction respectively be endorsed thereon, by any constable or officer of Court of the original or of any other county, district, burgh, or jurisdiction, and which concurrence all Sheriffs, Justices of the Peace, and Magistrates are hereby authorized to grant.

XXXII. *Fees to clerks not to be more than authorized by Schedule (E) to this Act.*—It shall not be lawful for the clerk of the peace, or sheriff clerk of any county or district, or the town clerk of any burgh, to demand or receive any greater or

additional fee or remuneration for anything done under the recited Acts or this Act than is authorized by the Schedule (E) to this Act annexed, and the town clerks of those parliamentary burghs the Magistrates of which are not at present authorized to grant certificates shall pay to the present clerks of the peace in the counties within which such burghs are situated one-half of the fees received by such town clerks in respect of applications for certificates and disposal of the same under this Act and the Acts herein recited, during the time such clerks of the peace shall continue to hold office.

XXXIII. *Power to persons to appeal from decisions of Sheriffs, etc., to Circuit Courts, etc.*—It shall be competent to any person conceiving himself aggrieved by any warrant, sentence, order, decree, judgment, or decision made or given by any Sheriff, Justice or Justices of the Peace, or Magistrate, in any cause, prosecution, or complaint raised under the authority of the recited Acts or of this Act, for breach of certificate, or for trafficking in spirits or other exciseable liquors without a certificate, to bring the case by appeal before the next Circuit Court of Justiciary, or where there are no Circuit Courts, before the High Court of Justiciary at Edinburgh, in the manner, and by and under the rules, limitations, conditions, and restrictions which shall from time to time be prescribed by the said High Court of Justiciary : provided always, that such appeal shall be competent only when founded on the ground of corruption or malice and oppression on the part of the Sheriff, Justice or Justices of the Peace, or Magistrate, as the case may be, or on such deviations in point of form from the statutory enactments as the Court shall think have prevented substantial justice from having been done : provided also, that such appeals shall be heard and determined in open Court, and that it shall be competent to the Court to correct such deviation in point of form : provided further, that notice in writing of such appeal shall be given to the opposite party,

and to the clerk of the Court pronouncing such warrant, sentence, order, decree, judgment, or decision, within eight days of the date thereof, and that no appeal shall be received or entertained unless the party appealing shall, along with his appeal, deposit with the clerk of the Circuit Court or of the High Court of Justiciary, as the case may be, a certificate under the hand of the sheriff clerk, town clerk, or clerk of the peace, or clerk to the Magistrates, as the case may be, that he has made consignation in the hands of such clerk of the whole sum and expenses, if any, decerned for by the warrant, sentence, order, decree, judgment, or decision appealed from, and unless he shall have found sufficient security for the whole expenses which may be incurred and found due under the appeal: provided always, that nothing herein contained shall be held to exclude or interfere with the right of appeal to Quarter Sessions which at present exists, provided the appellant shall forthwith deposit with the clerk of the peace the amount of penalty and costs awarded against him.

Note.—Appeals are regulated by the Summary Prosecutions Appeals (Scotland) Act, 1875.

XXXIV. *Sentences and judgments not subject to review except as provided by this Act.*—No warrant, sentence, order, decree, judgment, or decision made or given by any Quarter Sessions, Sheriff, Justice or Justices of the Peace, or Magistrate in any cause, prosecution, or complaint, or in any other matter under the authority of the said recited Acts or of this Act, shall be subject to reduction, advocacy, suspension, or appeal, or any other form of review or stay of execution, on any ground or for any reason whatever, other than by this Act provided.

Note.—See note to previous section.

XXXV. *Limitation of actions.*—Every action or prosecution against any Sheriff, Justice or Justices of the Peace, Magistrate, or judge acting under any general or local Police Act, or against any sheriff clerk, clerk of the peace, or town clerk, or

any procurator-fiscal, superintendent, or other officer of police, or constable, or other person, on account of anything done in execution of the recited Acts and this Act, or any of them, shall be commenced within two months after the cause of action or prosecution shall have arisen, and not afterwards.

XXXVI. *Nothing to repeal or affect recited Act except to give effect to this Act.*—Nothing herein contained shall be held to repeal or affect the provisions of the recited Acts or either of them, except in so far only as shall be necessary to give effect to the provisions of this Act; and the provisions and enactments contained in the recited Acts, so far as not repealed, shall extend, and be construed, deemed, and taken to extend, to and form part of this Act, in the same manner and as fully and to all intents and purposes as if the said provisions and enactments were herein repeated and set forth at length.

XXXVII. *Interpretation of terms.*—In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

The expression 'inn and hotel' shall in towns and the suburbs thereof refer to a house containing at least four apartments set apart exclusively for the sleeping accommodation of travellers; and in rural districts and populous places not exceeding one thousand inhabitants, according to the census last before taken, to a house containing at least two such apartments:

The word 'shebeen' shall mean and include every house, shop, room, premises, or place in which spirits, wine, porter, ale, beer, cider, perry, or other exciseable liquors are trafficked in by retail without a certificate and excise licence in that behalf:

The expression 'trafficking' shall mean and include bartering, selling, dealing in, trading in, exposing or offering for sale by retail:

The word 'hawking' shall mean and include trafficking in or about the streets, highways, or other places, or in or from any boat or other vessel upon the water :

The word 'certificate' shall mean any certificate in terms of this Act :

The word 'Sheriff' shall mean and include Sheriff-Substitute :

The word 'burgh' shall mean and include any royal or parliamentary burgh, and the boundaries of such parliamentary burghs shall for the purposes of this and the recited Acts be the same as those within which the Magistrates of such burghs have jurisdiction in matters of police :

The word 'constable' shall mean and include officers of Court, chief constable, superintendent of police, and every grade of constable or police officer, or any person belonging to any constabulary force in any part of Scotland, as also any sheriff officer or justice of peace constable.

XXXVIII. *Commencement of Act.*—This Act shall commence and take effect from and after the first day of September next after the passing thereof.

XXXIX. *Short title.*—This Act may be cited for all purposes as 'The Public Houses Acts Amendment (Scotland) Act, 1862.'

SCHEDULE (A).

NO. 1. FORM OF CERTIFICATE FOR INNS AND HOTELS.

At a general meeting for granting and renewing certificates for the sale of exciseable liquors held by her Majesty's Justices of the Peace acting in and for the county [*or of the Magistrates of the burgh, as the case may be*] of holden at

within the said county [*or burgh*] on the
 day of in the year One thousand
 eight hundred and Her Majesty's Justices of the
 Peace acting in and for said county [*or the* Magistrates of the
 said burgh] assembled at the said meeting did authorize and
 empower *A. L.*, now dwelling at , to keep
 an inn and hotel at in the parish of.

and county aforesaid [*or burgh* aforesaid] for the
 sale in the said house, but not elsewhere, of victuals, and of
 spirits, wine, porter, ale, beer, cider, perry, or other exciseable
 liquors [*or of victuals, and of porter, ale, beer, cider, or perry*]
 [*or of victuals, wine, porter, ale, beer, cider, or perry*], pro-
 vided the said *A. L.* shall be licensed and empowered to sell
 such liquors under the authority and permission of any excise
 licence to him or her in that behalf granted, on the terms and
 conditions following; that is to say, that the said *A. L.* do not
 fraudulently adulterate the bread or other victuals or liquors
 sold by him, or sell the same knowing them to have been
 fraudulently adulterated; and do not use in selling the same
 any weight or measure which is not of the legal imperial
 standard; and do not sell any groceries or other uncooked
 provisions in the said house or premises, to be consumed else-
 where; and do not knowingly permit any breach of the peace,
 or riotous or disorderly conduct, within the said house or
 premises; and do not knowingly permit or suffer men or
 women of notoriously bad fame, or girls or boys, to assemble
 and meet therein; and do not supply exciseable liquors to girls
 or boys apparently under fourteen years of age, or to persons
 who are in a state of intoxication; and do not permit or suffer
 any unlawful games therein; and do not keep open house, or
 permit or suffer any drinking on any part of the premises
 belonging thereto, or sell or give out therefrom any liquors,
 before eight of the clock in the morning, or after eleven of the
 clock at night, of any day, with the exception of refreshment

to travellers or to persons requiring to lodge in the said house or premises ; and do not open his house for the sale of any exciseable liquors, or permit or suffer any drinking therein or on the premises belonging thereto, or sell or give out the same, on Sunday, except for the accommodation of lodgers and travellers ; and do maintain good order and rule within his house and premises ; and, lastly, do not transgress or commit any breach of the conditions of any permission to sell on a public or special occasion within his own house or elsewhere. This certificate to continue in force, upon the terms and conditions aforesaid, from the day of One thousand eight hundred and and until the day of One thousand eight hundred and and no longer.

The above certificate is made out according to the deliverance in the book or register appointed to be kept in terms of the Act of Parliament.

C. D., Clerk.

NO. 2. FORM OF CERTIFICATE FOR PUBLIC HOUSES.

At a general meeting for granting and renewing certificates for the sale of exciseable liquors held by Her Majesty's Justices of the Peace acting in and for the county [*or of the Magistrates of the burgh, as the case may be*] of holden at within the said county [*or burgh*] on the day of in the year One thousand eight hundred and Her Majesty's Justices of the Peace acting in and for the said county [*or the Magistrates of the said burgh*] assembled at the said meeting did authorize and empower [*A. L.*], now dwelling at , to keep a public house at in the parish of and county [*or burgh*] aforesaid for the sale in the said house, but not elsewhere, of victuals, and of spirits, wine, porter, ale,

beer, cider, perry, and other exciseable liquors [*or of victuals, and of porter, ale, beer, cider, or perry*] [*or of victuals, wine, porter, ale, beer, cider, or perry*], provided that the said *A. L.* shall be licensed and empowered to sell such liquors under the authority and permission of any excise licence to him in that behalf granted, on the terms and conditions following; that is to say, that the said *A. L.* do not fraudulently adulterate the bread or other victuals or liquors sold by him, or sell the same knowing them to have been fraudulently adulterated; and do not use in selling the same any weight or measure which are not of the legal imperial standard; and do not sell any groceries or other uncooked provisions in the said house or premises, to be consumed elsewhere; and do not knowingly permit any breach of the peace, or riotous or disorderly conduct, within the said house or premises; and do no permit or suffer men or women of notoriously bad fame, or girls or boys, to assemble and meet therein; and do not sell or supply exciseable liquor to girls or boys apparently under fourteen years of age, or to persons who are in a state of intoxication, and do not receive or take in, as the price or for the supply of exciseable liquors, any wearing apparel, goods, or chattels; and do not permit or suffer any unlawful games therein; and do not keep open house, or permit or suffer any drinking in any part of the premises belonging thereto, or sell or give out therefrom any liquors, before eight of the clock in the morning, or after eleven of the clock at night, of any day; and do not open his house for the sale of any liquors, or permit or suffer any drinking therein, or on the premises thereto belonging, or sell or give out the same, or any other goods or commodities, on Sunday; and, lastly, do not transgress or commit any breach of the conditions of any permission to sell on a public or special occasion within his own house or elsewhere; and do maintain good order and rule within his house and premises. This certificate to continue in force, upon the terms and conditions

The above certificate is made out according to the deliverance in the book or register appointed to be kept in terms of the Act of Parliament.

Note.—This form of certificate omits the termination of the period to which the certificate applies. Section 9 of the Home Drummond Act, which is still in force, specifies the duration of certificates. It would therefore appear to be competent to insert the date of expiry of the certificate before the words ‘and no longer,’ at the end of the above form, or to add a note to the end of the certificate mentioning the date at which it will expire.

At a general meeting for granting or renewing certificates for the sale of exciseable liquors held by Her Majesty's Justices of the Peace acting in and for the county [*or of the Magistrates of the burgh, as the case may be*] of _____ holden at _____ within the said county [*or burgh*] on the _____ day of _____ in the year One thousand eight hundred and _____ Her Majesty's Justices of the Peace acting in and for the said county [*or the Magistrates of the said burgh*] assembled at the said meeting did authorize and empower *A. L.*, now dwelling at _____, to keep premises at _____ in the parish _____ and county aforesaid [*or burgh aforesaid*] for the sale therein, but not elsewhere, of spirits, wine, porter, ale, beer, cider, perry, or other exciseable liquors [*or of porter, ale, beer, cider,*

[illegible]

The above certificate is made out according to the deliverance in the book or register appointed to be kept in terms of the Act of Parliament.

C. D., Clerk.

No. 1.

Whether applicant carries on or

intends to carry on or follow
any other trade or occupation,
Whether applicant holds a
licence at present ; and if so,
state where the premises are
situated, and how long he has
held the same,

Whether applicant has any in-
terest in any other business in
premises at present licensed,
or for which a certificate is
sought ; and if so, where those
premises are severally situ-
ated.

State the actual rent of premises,
and the proprietor's or factor's
name and designation,

Signature of Applicant

Date

NO. 2. REPORT BY JUSTICE OR MAGISTRATE.

I, one of Her Majesty's Justices of the
Peace for [or one of the Magistrates of the
burgh of as the case may be], hereby report that
I personally examined the premises described in the foregoing
application, and that the same are of suitable construction and
accommodation for the purpose applied for, reserving to the
Justices [or Magistrates, as the case may be] to determine
whether it be meet and convenient to grant the certificate
applied for.

J. P. or Magistrate.

CERTIFICATE OF CHARACTER AND QUALIFICATION.

I, _____ one of Her Majesty's Justices of the Peace for _____ [or one of the Magistrates of the Burgh of _____ as the case may be], certify, after careful inquiry, that _____, designed in the foregoing application, is [here state result of inquiry touching applicant's character and qualification].

J. P. or Magistrate.

SCHEDULE (C).

LIST of APPLICATIONS for CERTIFICATES for the Sale of Exciseable Liquors for the County [or _____ of the County] of _____ or Burgh of _____, for new Premises, by new Tenants or Occupants, and for Renewal of transferred Certificates.

Name, Designation, and Residence of Applicant.	Number of Street of Burgh (or Place and Parish of County) of Premises.	Class of Certificate applied for.	Name and Address of Landlord or Factor of Premises.
	<i>For new Premises.</i>		
	<i>By new Tenants or Occupants.</i>		
	<i>For Renewal of transferred Certificate.</i>		

SCHEDULE (D).

No. 1. COMPLAINT.

Note.—Forms of Court procedure superseded by the Summary Jurisdiction Acts, 1864 and 1881.

SCHEDULE (E).

The following FEES, and no others, to be payable to Clerks of the Peace, Sheriff Clerks, and Town Clerks, acting under this Act or the Acts therein recited :—

Each printed copy of form of application for certificate,	£0	0	6
Lodging application,	0	2	6
Lodging objection (under section 11),	0	2	6
Inspection of register, or applications, for each hour or part of an hour,	0	1	0
Warrant on complaint,	0	2	0
Each witness examined in trials,	0	1	0
Conviction,	0	2	6
Deciding objections (under section 11),	0	1	0
Lodging appeal and finding caution,	0	3	0
Deciding appeal,	0	2	6
Extracts or certified copies of any proceedings, warrants, or conviction, per sheet, written or printed, of 150 words,	0	1	0

IV.—DR. CAMERON'S PUBLICANS' CERTIFICATES ACT, 1876.

39 AND 40 VICT. CAP. 26.

An Act to assimilate the Law of Scotland relating to the granting of Licences to sell intoxicating Liquors to the Law of England.
—[13th July 1876.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

I. *Short title.*—This Act may be cited as 'The Publicans' Certificates (Scotland) Act, 1876.'

II. *Extent of Act.*—This Act shall apply to Scotland only.

III. *Commencement of Act.*—This Act shall, except so far as is otherwise expressly provided, commence and come into operation on the first day of January One thousand eight hundred and seventy-seven.

IV. *Interpretation of terms.*—In this Act the following words and terms have the meanings hereinafter assigned to them ; that is to say,—

'County' includes a county of a city, and for the purposes of this Act the upper and middle wards of the county of Lanark shall be considered as constituting a county, and the lower ward of the county of Lanark as also constituting a county :

'Burgh' means any burgh having at present the power of licensing vested in the Magistrates thereof ; and the boundaries of a burgh shall, for the purposes of this Act, be the same as those within which the Magistrates

of the burgh have now jurisdiction in granting certificates for licences for the sale of exciseable liquors :

‘Magistrate’ means a Magistrate of a burgh :

‘A new certificate’ means a certificate, granted by the competent authority, for a licence for the sale of exciseable liquors to any person in respect of any premises which are not certificated at the time of the application for such grant, but shall not apply to the rebuilding of certificated premises which have been destroyed by fire, tempest, or other unforeseen and unavoidable calamity.

V. *Refusal of new certificate by Justices or Magistrates to be final.*—Notwithstanding anything contained in section fourteen of the Act of the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, or in any other enactment, no appeal shall lie to any Justices of the Peace assembled in Quarter Sessions against any proceeding of any Justices of the Peace for any county, or Magistrates of any burgh, assembled for granting or renewing certificates for licences for the sale of exciseable liquors, in refusing any application for a new certificate, but every such proceeding and refusal shall be final.

VI. *Grant of new certificates in counties.*—A grant of a new certificate in any county in Scotland, except the county of the city of Edinburgh, shall not be valid unless it shall be confirmed by a standing committee of the Justices of the Peace for the county (hereafter in this Act called the county licensing committee).

VII. *Provisions in regard to a county licensing committee.*—The following provisions shall have effect with respect to the appointment and proceedings of a county licensing committee ; that is to say,—

- (1.) The Justices of the Peace in Quarter Sessions assembled for each county, except the county of the city of

Edinburgh, shall at the meeting of Quarter Sessions directed by law to be held in August of the year One thousand eight hundred and seventy-six, or at any adjournment thereof, and annually in every subsequent year at the meeting of Quarter Sessions to be held in April, or any adjournment thereof, appoint from among themselves, for the purposes of this Act, a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient :

- (2.) A county licensing committee shall consist of not less than three, nor more than twelve members :
- (3.) The quorum of a county licensing committee shall be three members :

- (4.) Any vacancy arising in any such committee from death, resignation, or other cause, may be from time to time filled up by the Justices of the Peace in Quarter Sessions by whom the committee is appointed :

A person appointed to fill a vacancy shall retire from office when the person creating the vacancy would so retire :

Any such committee may, if a quorum exists, act notwithstanding vacancies thereon :

- (5.) A county licensing committee shall continue in office until another such committee is appointed as hereinbefore provided :

The members of a committee retiring may be re-appointed :

- (6.) A county licensing committee shall have power to elect one of their own number to act as chairman during their tenure of office, and until a chairman is appointed, and, in case of his absence from any meeting, the committee shall elect one of their

members present at the meeting to act as chairman of that meeting; and in the event of an equal division of the committee, the chairman shall have a second vote:

- (7.) The Clerk of the Peace of the county, and in the case of the upper and middle wards of the county of Lanark the clerk of the peace for the upper ward, shall by himself or his deputy be the clerk of the county licensing committee or committees, and also of any joint committee to be appointed, as hereinafter provided, in respect of any burgh or part of a burgh being situated in the county, and shall perform all such duties in relation to any such committee or committees as he is required by law to perform in relation to the Justices in Quarter Sessions assembled.

Note.—Subsection (1) has been repealed, and section 2 of 'The Publicans' Certificates (Scotland) Act (1876) Amendment Act, 1877,' substituted.

VIII. *Grant of new certificates in burghs.*—A grant of a new certificate in any burgh in Scotland shall not be valid unless it shall be confirmed by a joint committee of the Magistrates of the burgh and the Justices of the Peace of the county in which the premises in respect of which the certificate is applied for are situated (hereafter in this Act called the joint committee for the burgh).

IX. *Provisions in regard to a joint committee for a burgh.*—The following provisions shall have effect with respect to the appointment and proceedings of a joint committee for a burgh; that is to say,—

- (1.) A joint committee for a burgh shall consist of three Justices of the Peace of the county in which the burgh is situated, and three Magistrates of the burgh, except where by the constitution of the burgh there are only two Magistrates therein, in which case the

joint committee shall consist of two Justices of the Peace for the county in which the burgh is situated and of the two Magistrates of the burgh :

- (2.) Where a burgh is situated partly in one county and partly in one or more other counties, there shall be as many joint committees for the burgh as there are counties in which the burgh is partly situated :

The Magistrates appointed to be members of any one of such joint committees shall be members of all of them, and subject to this provision the joint committee for the part of the burgh situated in any county shall be so appointed, and shall have the same duties and powers with respect to such part, as if such part were a separate burgh within such county :

- (3.) The Justices of the Peace on a joint committee shall be appointed by the county licensing committee within whose area of jurisdiction the burgh, or any part thereof for which such joint committee is to be appointed, is situated ; and in the case of the city or burgh of Edinburgh, by a general meeting of the Justices of the Peace for such city, which is hereby directed to be called for the second Tuesday of November in each year, commencing with the year One thousand eight hundred and seventy-six ; and the Magistrates on a joint committee shall be appointed by the Magistrates of the burgh :
- (4.) The joint committees for the several burghs shall be appointed in each year on the second Tuesday of November, commencing with the year One thousand eight hundred and seventy-six :
- (5.) The members of a joint committee for a burgh shall be deemed to be appointed for the year succeeding their appointment, and shall be eligible for re-

appointment, and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members shall continue to act on the joint committee till their successors are appointed :

- (6.) Any vacancy arising in a joint committee for a burgh from death, resignation, or other cause, may be from time to time filled up by the Magistrates or county licensing committee or Justices of the Peace by whom the person creating such vacancy was appointed :

Any such joint committee may, if a quorum exist, act notwithstanding a vacancy thereon ;

A person appointed to fill a vacancy shall retire from office when the person creating the vacancy would so retire :

- (7.) Where the joint committee of a burgh consists of six members the quorum shall be five members ; and where it consists of four members the quorum shall be three members :

- (8.) The senior Magistrate on a joint committee for a burgh present at any meeting shall be its chairman, and in the event of an equal division of the committee the chairman shall have a second vote. If the Provost or Lord Provost of a burgh is a member of the joint committee of that burgh, he shall be deemed to be the senior Magistrate on the said joint committee.

X. *As to proceedings for confirming new certificate.*—In a county the Justices of the Peace in Quarter Sessions assembled, and in a burgh the Magistrates, shall make such regulations with respect to the meetings of the county licensing committee and the joint committee for the burgh respectively, with respect to the meetings thereof and the transaction of business thereat, as they may think fit, and the following provisions shall have effect ; that is to say,—

- (1.) The application for confirmation of a certificate shall

be in the form as nearly as may be set forth in the schedule annexed to this Act, and shall be lodged (together with the certificate) with the clerk of the peace of the county within ten days after the grant of the certificate :

- (2.) The county licensing committee, or the joint committee for the burgh, as the case may be, shall have power to award costs to or against any party to such proceedings, except the procurator-fiscal for the public interest, as they shall think just.

XI. *Provisions for the case of Justice or Magistrate being disqualified to act as such.*—No Justice of the Peace or Magistrate of a burgh shall be qualified to be appointed a member of any county licensing committee or joint committee of a burgh under this Act, unless he is qualified to Act as such Justice of the Peace or Magistrate in the execution of the Act of the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, according to the provisions contained in the thirteenth section thereof; and every Justice of the Peace or Magistrate of a burgh who shall be appointed a member of any such committee not being qualified as aforesaid shall, if he shall knowingly or wilfully act as a member of such committee, be liable to forfeit and pay the same penalty, to be recovered and applied in the same manner, and subject to the same conditions, as if he had been guilty of an offence under the said thirteenth section: provided that no grant of a new certificate confirmed under the provisions of this Act shall be liable to objection on the ground that the Magistrates or Justices of the Peace who granted or confirmed the same or any of them were not qualified to make such grant or confirmation.

XII. *Confirmation of new certificates.*—Any person who appears before the Justices of the Peace or Magistrates, and opposes the grant of a new certificate, and no other person

excepting the procurator-fiscal for the public interest, may appear and oppose the confirmation of such grant by the confirming authority in counties or burghs.

XIII. *Deliverances to be entered in book or register.*—All deliverances or applications for the confirmation of new certificates shall be entered in the book or register appointed to be kept in terms of the schedule annexed to the Act passed in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter sixty-seven.

XIV. *Fees.*—The fees demandable in respect of proceedings under this Act shall be as nearly as may be the same as those payable under the 'Public Houses Acts Amendment (Scotland) Act, 1862,' for the like proceedings under that Act.

XV. *Certificate holders need not attend licensing meeting unless required to do so.*—Where a person holding a certificate applies for the renewal of his certificate, he need not attend in person at the meeting for granting and renewing certificates, unless he is required by the Justices of Peace of the county or Magistrates of the burgh, as the case may be, so to attend.

XVI. *Renewal and transfer of certificates.*—Subject to the provisions of this Act, certificates shall be renewed and transferred, and the powers and discretion of Justices or Magistrates and the rights of appeal relative to such renewal and transfer shall be exercised as heretofore.

XVII. *Table beer licences not to be granted without certificates.*—No licence in the terms of the Act passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter twenty-one, for the sale in any house, shop, or premises of table beer at a price not exceeding one penny halfpenny the quart, and not to be drunk on the premises, shall be granted by the Commissioners or by any officer of Inland Revenue to any person in Scotland who shall not produce to the said Commissioners or officer a certificate in terms of 'The Public Houses Acts Amendment (Scotland)

Act, 1862,' and the Acts therein recited, or of this Act, and such certificate shall be applied for, granted, confirmed, transferred, and renewed in the manner, and subject to all the provisions applicable to other certificates in the like circumstances granted, confirmed, transferred, and renewed in terms of the foresaid Acts, and, *mutatis mutandis*, may be in the form (so far as the same is applicable) of Schedule A, No. 3, of the 'Public Houses Acts Amendment (Scotland) Act, 1862.'

SCHEDULE.

(1.) APPLICATION FOR CONFIRMATION OF NEW CERTIFICATE.

To the County Licensing Committee for the County of

or

To the Joint Committee for the Burgh of and the County of

I, *A. B.*, hereby apply for confirmation of the grant made to me of the certificate herewith produced by the [Justices of the Peace of the county of *or* Magistrates of the burgh of *as the case may be*] on [*give date*].

(Signed) [*A. B.*]

or

[*C. D., law agent of A. B.*]

(2.) CONFIRMATION OF NEW CERTIFICATE.

This certificate was confirmed by the licensing committee of the said county of [*or* by the joint committee of the said county of and the said burgh of], at a meeting holden on the day of in the year .

The above confirmation is made out according to the deliverance in the book or register appointed to be kept in terms of the Act of Parliament. *G. H., Clerk.*

V. — ' THE PUBLICANS' CERTIFICATES
(SCOTLAND) ACT (1876) AMENDMENT
ACT, 1877.'

40 VICT. CAP. 3.

An Act to amend the Publicans' Certificates (Scotland) Act, 1876.
—[23rd March 1877.]

WHEREAS it is expedient to amend the Publicans' Certificates (Scotland) Act, 1876: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

I. *Short title.*—This Act may be cited as 'The Publicans' Certificates (Scotland) Act (1876) Amendment Act, 1877.'

II. *Subsection 1 of section 7 of recited Act repealed.*—Subsection 1 of section 7 of the recited Act is hereby repealed, and in place thereof it is enacted that the following words shall be deemed and be taken to be the first subsection of the seventh section of the recited Act, and the recited Act shall be read and construed as if the first subsection of the seventh section thereof had been originally expressed in the following words, viz. :—

The Justices of the Peace in Quarter Sessions assembled for each county, except the county of the city of Edinburgh, shall at the meeting of Quarter Sessions directed by law to be held in August of the year One thousand eight hundred and seventy-six, or at any adjournment thereof, and annually in every subsequent year, except the year One thousand eight hundred and seventy-seven,

during which year no such appointment shall be made, at the meeting of Quarter Sessions to be held in March, or any adjournment thereof, appoint from among themselves, for the purposes of this Act, a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient.

III. *As to county licensing committees already appointed.*—Every county licensing committee already appointed under the provisions of the said Act shall continue in office until another such committee is appointed, in manner in the said Act provided, at the meeting of Quarter Sessions to be held in March One thousand eight hundred and seventy-eight, or any adjournment thereof.

Note.—By the Statute Law Revision Act, 1883, this Act has been in part repealed, viz. : Section 2 to ‘enacted that,’ from ‘at the meeting’ to ‘thereof,’ and from ‘in every subsequent’ to ‘shall be made.’

VI.—LIABILITY OF INNKEEPERS ACT.

26 AND 27 VICT. CAP. 41.

An Act to amend the Law respecting the Liability of Innkeepers, and to prevent certain Frauds upon them.—[13th July 1863.]

WHEREAS it is expedient to amend the law concerning the liability of innkeepers in respect of the goods of their guests in manner hereinafter mentioned : be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons,

in this present Parliament assembled, and by the authority of the same, as follows (that is to say),—

I. *Innkeeper not to be liable for loss, etc., beyond £30, except in certain cases.*—No innkeeper shall, after the passing of this Act, be liable to make good to any guest of such innkeeper any loss of or injury to goods or property brought to his inn, not being a horse or other live animal, or any gear appertaining thereto, or any carriage, to a greater amount than the sum of thirty pounds, except in the following cases (that is to say),—

(1.) Where such goods or property shall have been stolen, lost, or injured through the wilful act, default, or neglect of such innkeeper or any servant in his employ :

(2.) Where such goods or property shall have been deposited expressly for safe custody with such innkeeper :

Provided always, that in the case of such deposit it shall be lawful for such innkeeper, if he think fit, to require, as a condition of his liability, that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same.

II. *Obligation to receive property of guests for safe custody.*—If any innkeeper shall refuse to receive for safe custody, as before mentioned, any goods or property of his guest, or if any such guest shall, through any default of such innkeeper, be unable to deposit such goods or property as aforesaid, such innkeeper shall not be entitled to the benefit of this Act in respect of such goods or property.

III. *Notice of law, etc., to be conspicuously exhibited.*—Every innkeeper shall cause at least one copy of the first section of this Act, printed in plain type, to be exhibited in a conspicuous part of the hall or entrance to his inn, and he shall be entitled to the benefit of this Act in respect of such goods or property only as shall be brought to his inn while such copy shall be so exhibited.

IV. *Interpretation of terms.*—The words and expressions hereinafter contained, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; that is to say, the word ‘inn’ shall mean any hotel, inn, tavern, public house, or other place of refreshment, the keeper of which is now by law responsible for the goods and property of his guests; and the word ‘innkeeper’ shall mean the keeper of any such place.

VII.—INNKEEPERS ACT, 1878.

41 AND 42 VICT. CAP. 38.

An Act for the further relief of Innkeepers.—[8th August 1878.]

WHEREAS it is just and expedient to give, in addition to the present right of lien, a power of sale under certain circumstances to keepers of hotels, inns, and licensed public houses upon and in respect of goods and chattels deposited with them or upon the tenements and premises occupied by them: be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,—

I. *Landlord, etc., may dispose of goods left with him after six weeks.*—The landlord, proprietor, keeper, or manager of any hotel, inn, or licensed public house shall, in addition to his ordinary lien, have the right absolutely to sell and dispose by public auction of any goods, chattels, carriages, horses, wares,

or merchandise which may have been deposited with him or left in the house he keeps, or in the coach-house, stable, stable-yard, or other premises appurtenant or belonging thereunto, where the person depositing or leaving such goods, chattels, carriages, horses, wares, or merchandise shall be or become indebted to the said innkeeper, either for any board or lodging, or for the keep and expenses of any horse or other animals left with or standing at livery in the stables or fields occupied by such innkeeper.

Provided that no such sale shall be made until after the said goods, chattels, carriages, horses, wares, or merchandise shall have been for the space of six weeks in such charge or custody, or in or upon such premises, without such debt having been paid or satisfied, and that such innkeeper, after having, out of the proceeds of such sale, paid himself the amount of any such debt, together with the costs and expenses of such sale, shall on demand pay to the person depositing or leaving any such goods, chattels, carriages, horses, wares, or merchandise the surplus (if any) remaining after such sale: provided further, that the debt for the payment of which a sale is made shall not be any other or greater debt than the debt for which the goods or other articles could have been retained by the innkeeper under his lien.

Provided also, that at least one month before any such sale, the landlord, proprietor, keeper, or manager shall cause to be inserted in one London newspaper and one country newspaper circulating in the district where such goods, chattels, carriages, horses, wares, or merchandise, or some of them, shall have been deposited or left, an advertisement containing notice of such intended sale, and giving shortly a description of the goods and chattels intended to be sold, together with the name of the owner or person who deposited or left the same where known.

II. *Short title.*—This Act may be cited as the Innkeepers Act, 1878.

VIII.—THE PASSENGER VESSELS LICENCES AMENDMENT (SCOTLAND) ACT, 1882.

45 AND 46 VICT. CAP. 66.

An Act to amend the Law relating to Licences to retail Intoxicating Liquors on Passenger Vessels in Scotland.—[18th August 1882.]

9 *Geo. IV. cap. 47.*—Whereas an Act was passed in the ninth year of the reign of His Majesty King George the Fourth, for regulating the retail of exciseable articles and commodities to passengers on board passage vessels from one part to another of the United Kingdom :

4 and 5 *Will. IV. cap. 75, sec. 10.*—And whereas another Act was passed in the session of Parliament held in the fourth and fifth years of the reign of His late Majesty King William the Fourth, to repeal the duties made on spirits in Ireland, and to impose other duties in lieu thereof, and to impose additional duties on licences to retailers of spirits in the United Kingdom :

43 and 44 *Vict. cap. 20, sec. 45.*—And whereas by the Inland Revenue Act, 1880, duties were imposed upon licences for the sale of intoxicating liquors on board vessels employed for the carriage of passengers going from and returning to the same place in the United Kingdom on the same day, and it was enacted that such licences should be granted under and be subject to the enactments contained in the above-recited Acts, so far as such enactments are consistent with the said Inland Revenue Act, and the terms of the licences respectively : and whereas great evils have arisen from the sale of intoxicating liquors on Sunday on board of passenger vessels plying on rivers and estuaries in Scotland :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

I. *Condition may be indorsed on licence.*—It shall be lawful for the Commissioners of Inland Revenue, or for any officer duly authorized by them, to grant licences for the retail of intoxicating liquors on board packets, boats, and other vessels employed for the carriage of passengers from one part of Scotland to another, or going from and returning to the same place in Scotland on the same day, in terms of the recited Acts, to indorse on such licences a condition that no intoxicating liquor shall be sold, retailed, bartered, or supplied on board such vessels during any voyage commenced and terminated on the same Sunday.

II. *Penalties.*—If any person holding a licence having such a condition as aforesaid indorsed thereon, shall sell, retail, barter, or supply, or shall permit to be sold, bartered, or supplied, any intoxicating liquor on a Sunday on board any such vessel in contravention of the said condition, such contravention shall be deemed and taken to be a retailing or selling intoxicating liquors without having taken out a licence, and such person shall be guilty of an offence within the meaning of the third section of the first-recited Act, and shall be liable to the penalties therein provided.

Note.—The penalty referred to in said third section is £10.

III. *Licences may be called in for indorsation.*—It shall be lawful for the Commissioners of Inland Revenue at any time after the passing of this Act, to require the holder of any licence granted under the authority of the recited Acts, or any of them, whether such licence was granted prior or subsequent to the passing of this Act, to send in his licence to the Commissioners or to any officer authorized by them to issue such licences, for the purpose of having such condi-

tion as aforesaid indorsed upon it; and if any holder of such licence shall fail to send his licence to the Commissioners or to such officer as aforesaid, within seven days after receipt of a notice from the Commissioners or any officer duly authorized by them, and shall thereafter sell, retail, barter, or supply, or permit to be sold, bartered, or supplied, intoxicating liquors on board any vessel to which such licence applies, he shall be guilty of an offence within the meaning of the third section of the first-recited Act, and shall be liable to the penalties therein provided.

Note.—The penalty is £10.

IV. *Short title.*—This Act may be cited as the Passenger Vessels Licences Amendment (Scotland) Act, 1882.

IX.—PAYMENT OF WAGES IN PUBLIC HOUSES PROHIBITION ACT, 1883.

46 AND 47 VICT. CAP. 31.

An Act to prohibit the Payment of Wages to Workmen in Public Houses and certain other places.—[20th August 1883.]

WHEREAS by the Coal Mines Regulations Act, 1872, and the Metalliferous Mines Regulation Act, 1872, the payment in public houses, beershops, or other places in the said Acts mentioned of wages to persons employed in or about any mines to which the said Acts apply is prohibited, and it is expedient to extend such prohibition to the payment in public houses, beershops, and other places in England and Scotland of wages to all workmen as defined by this

Act: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. *Short title.*—This Act may be cited as the Payment of Wages in Public Houses Prohibition Act, 1883.

II. *Definition of workman.*—In this Act the expression 'workman' means any person who is a labourer, servant in husbandry, journeyman, artificer, handicraftsman, or is otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, but does not include a domestic or menial servant, nor any person employed in or about any mine to which the Coal Mines Regulation Act, 1872, or the Metalliferous Mines Regulation Act, 1872, applies.

III. *No wages to be paid within public house.*—From and after the passing of this Act no wages shall be paid to any workman at or within any public house, beershop, or place for the sale of any spirits, wine, cider, or other spirituous or fermented liquor, or any office, garden, or place belonging thereto or occupied therewith, save and except such wages as are paid by the resident owner or occupier of such public house, beershop, or place to any workman *bona fide* employed by him.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this Act shall be guilty of an offence against this Act.

And in the event of any wages being paid by any person in contravention of the provisions of this Act for or on behalf of any employer, such employer shall himself be guilty of an offence against this Act, unless he prove that he had taken all reasonable means in his power for enforcing the provisions of this Act and to prevent such contravention.

IV. *Penalties.*—Every person who is guilty of an offence

against this Act shall be liable to a penalty not exceeding ten pounds for each offence; and all offences against this Act may be prosecuted, and all penalties under this Act may be recovered, by any person summarily in England in the manner provided by the Summary Jurisdiction Acts, and in Scotland in the manner provided by the Summary Jurisdiction (Scotland) Acts, 1864 and 1881.

V. *Act not to apply to Ireland.*—This Act shall not apply to Ireland.

X.—THE COAL MINES REGULATION ACT, 1872.

35 AND 36 VICT. CAP. 76.

XVI. *Prohibition of payment of wages at public houses, etc.*—No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any public house, beershop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing, and to the best of his power enforcing, the provisions of this section to prevent such contravention or non-compliance.

LX. *Penalty for offences against Act.*—Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of any act or omission which in the case of an owner, agent, or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

Every person who is guilty of an offence against this Act shall be liable to a penalty not exceeding, if he is an owner, agent, or manager, twenty pounds, and if he is any other person, two pounds for each offence; and if the inspector has given written notice of any such offence, to a further penalty not exceeding one pound for every day after such notice that such offence continues to be committed.

XI.—THE METALLIFEROUS MINES REGULATION ACT, 1872.

35 AND 36 VICT. CAP. 77.

IX. *Prohibition of payment of wages at public houses, etc.*—No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any public house, beershop, or place for the sale of any spirits, wine, beer, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance, in the

case of any mine, by any person whomsoever, the owner and agent of such mine shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing, and to the best of his power enforcing, the provisions of this section to prevent such contravention or non-compliance.

XXXI. *Penalty for offences against Act.*—Every person employed in or about a mine, other than an owner or agent, who is guilty of any act or omission which in the case of an owner or agent would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

Every person who is guilty of an offence against this Act shall be liable to a penalty not exceeding, if he is an owner or agent, twenty pounds, and if he is any other person two pounds for each offence; and if an inspector has given written notice of any such offence, to a further penalty not exceeding one pound for every day after such notice that such offence continues to be committed.

XII.—THE TIPPLING ACT, 1751.

24 GEO. II. CAP. 40.

XII. *No debt under twenty shillings for spirituous liquors, contracted at one time, recoverable, etc.—Retailer taking a pledge for liquors to forfeit forty shillings—Application of the penalty—Owner may recover his pledge.*—And be it further enacted by the authority aforesaid, that from and after the said first day of July 1751, no person or persons whatsoever shall be intitled unto or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money,

debt or demands whatsoever, for or on account of any spirituous liquors, unless such debt shall have really been and *bona fide* contracted at one time, to the amount of twenty shillings or upwards, nor shall any particular article or item in any account or demand for distilled spirituous liquors be allowed or maintained, where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least, and that without fraud or covin, and where no part of the liquors so sold or delivered shall have been returned, or agreed to be returned, directly or indirectly; and in case any retailer of spirituous liquors, with or without a licence, shall take or receive any pawn or pledge from any person or persons whatsoever by way of security for the payment of any sum or sums of money owing by such person or persons for such spirituous liquors or strong waters, every such person or persons offending herein shall forfeit and lose the sum of forty shillings for each and every pawn or pledge so taken in or received by him or them, to be levied and recovered by warrant, under the hand and seal of one Justice of the Peace where the offence is committed; and that one moiety thereof shall be to the use of the poor of the parish where such offence is committed, and the other moiety to the informer or informers; and the person or persons to whom any such pawn or pledge doth or shall belong, shall have the same remedy for recovering such pawn, or the value thereof, as if it had never been pledged.

Note.—Part of this section has been repealed by the Amendment Act, which follows. (See next page.)

XIII.—AMENDMENT OF TIPLING ACT.

25 AND 26 VICT. CAP. 38.

An Act to amend the Laws relating to the Sale of Spirits.—
[17th July 1862.]

Recital of section 12 of 24 Geo. II. cap. 40, enacting that no action should be brought to recover any debt for spirituous liquors, unless contracted at one time to the amount of twenty shillings—Recited enactment repealed.—Whereas by the twelfth section of an Act passed in the twenty-fourth year of the reign of King George the Second, chapter forty, intituled ‘An Act for granting to His Majesty an additional Duty upon Spirituous Liquors, and upon Licences for retailing the same; and for repealing the Act of the twentieth year of His present Majesty’s reign, intituled “An Act for granting a Duty to His Majesty to be paid by Distillers upon Licences to be taken out by them for retailing Spirituous Liquors,” and for the more effectually restraining the retailing of distilled Spirituous Liquors, and for allowing a drawback upon the exportation of British-made Spirits; and that the parish of St. Mary-le-bone, in the county of Middlesex, shall be under the inspection of the Head Office of Excise,’ it is amongst other things enacted that no person or persons whatsoever shall be entitled unto, or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money, debt or demands whatsoever, for or on account of any spirituous liquors, unless such debt shall have really been and *bona fide* contracted at one time to the amount of twenty shillings or upwards, nor shall any particular article or item in any account or demand for distilled spirituous liquors be

allowed or maintained where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least: and whereas it is expedient that the said recited enactment should be repealed so far as is hereinafter mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of the said enactment as is hereinbefore recited shall be, and the same is hereby repealed, so far only as relates to spirituous liquors sold to be consumed elsewhere than on the premises where sold, and delivered at the residence of the purchaser thereof in quantities not less at any one time than a reputed quart.

XIV.—ARMY ACT, 1881.

44 AND 45 VICT. CAP. 58.

CIII. *Obligation of constable to provide billets for officers, soldiers, and horses.*—(1.) Every constable for the time being in charge at any place in the United Kingdom mentioned in the route issued to the commanding officer of any portion of Her Majesty's regular forces shall, on the demand of such commanding officer, or of an officer or soldier authorized by him, and on production of such route, billet on the occupiers of victualling houses and other premises specified in this Act as victualling houses in that place such number of officers, soldiers, and horses entitled under this Act to be billeted as are mentioned in the route and stated to require quarters.

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CIV. *Liability to provide billets.*—(1.) The provisions of this part of this Act with respect to victualling houses shall extend to all inns, hotels, livery stables, or alehouses, also to the houses of sellers of wine by retail, whether British or Foreign, to be drunk in their own houses or places thereunto belonging, and to all houses of persons selling brandy, spirits, strong waters, cider, or metheglin by retail; and the occupier of a victualling house, inn, hotel, livery stable, alehouse, or any such house as aforesaid, shall be subject to billets under this Act, and is in this Act included under the expression ‘keeper of a victualling house,’ and the inn, hotel, house, stables, and premises of such occupier are in this Act included under the expression ‘victualling house.’

(2.) Provided that an officer or soldier shall not be billeted—

- (a) In any private house; nor
- (b) In any canteen held or occupied under the authority of a Secretary of State; nor
- (c) On persons who keep taverns only, being vintners of the city of London admitted to their freedom of the said company in right of patrimony or apprenticeship, notwithstanding the persons who keep such taverns have taken out licences for the sale of any intoxicating liquor; nor
- (d) In the house of any distiller kept for distilling brandy and strong waters, so as such distiller does not permit tippling in such house; nor
- (e) In the house of any shopkeeper whose principal dealing is more in other goods and merchandise than in brandy and strong waters, so as such shopkeeper does not permit tippling in such house; nor
- (f) In a house of a person licensed only to sell beer or cider not to be consumed on the premises; nor
- (g) In the house of residence of any foreign consul duly accredited as such.

- CV. *Officers, soldiers, and horses entitled to be billeted.*—(1.) All officers and soldiers of Her Majesty's regular forces; and
- (2.) All horses belonging to Her Majesty's regular forces; and
- (3.) All horses belonging to the officers of such forces for which forage is for the time being allowed by Her Majesty's regulations,
- shall be entitled to be billeted.

CVI. *Accommodation and payment on billet.*—(1.) The keeper of a victualling house upon whom any officer, soldier, or horse is billeted shall receive such officer, soldier, or horse in his victualling house, and furnish there the accommodation following; that is to say, lodging and attendance for the officer; and lodging, attendance, and food for the soldier; and stable room and forage for the horse, in accordance with the provisions of the second schedule to this Act.

(2.) Where the keeper of a victualling house on whom any officer, soldier, or horse is billeted desires, by reason of his want of accommodation, or of his victualling house being full or otherwise, to be relieved from the liability to receive such officer, soldier, or horse in his victualling house, and provides for such officer, soldier, or horse in the immediate neighbourhood such good and sufficient accommodation as he is required by this Act to provide, and as is approved by the constable issuing the billets, he shall be relieved from providing the same in his victualling house.

(3.) There shall be paid to the keeper of a victualling house for the accommodation furnished by him in pursuance of this Act the prices for the time being authorized in this behalf by Parliament.

(4.) An officer or soldier demanding billets in pursuance of this Act shall, before he departs, and if he remains longer than four days, at least once in every four days, pay the just demands of every keeper of a victualling house on whom he

and any officers and soldiers under his command, and his or their horses (if any), have been billeted.

(5.) If by reason of a sudden order to march, or otherwise, an officer or soldier is not able to make such payment to any keeper of a victualling house as is above required, he shall before he departs make up with such keeper of a victualling house an account of the amount due to him, and sign the same, and forthwith transmit the account so signed to a Secretary of State, who shall forthwith cause the amount named in such account as due to be paid.

CVII. *Annual list of keepers of victualling houses liable to billets.*

—(1.) The police authority for any place may cause annually a list to be made out of all keepers of victualling houses within the meaning of this Act, in such place, or any particular part thereof, liable to billets under this Act, specifying the situation and character of each victualling house, and the number of soldiers and horses who may be billeted on the keeper thereof.

(2.) The police authority shall cause such list to be kept at some convenient place open for inspection at all reasonable times by persons interested, and any person who feels aggrieved, either by being entered in such list or by being entered to receive an undue proportion of officers, soldiers, or horses, may complain to a Court of summary jurisdiction, and the Court, after such notice as the Court think necessary to persons interested, may order the list to be amended in such manner as the Court may think just.

CVIII. *Regulations as to grant of billets.*—The following regulations shall be observed with respect to billeting in pursuance of this Act ; that is to say,—

(3.) If a keeper of a victualling house feels aggrieved by having an undue proportion of officers, soldiers, or horses

billeted on him, he may apply to a Justice of the Peace, or if the billets have been made out by a Justice, may complain to a Court of summary jurisdiction, and the Justice or Court may order such of the officers, soldiers, or horses to be removed and to be billeted elsewhere as may seem just.

CX. *Offences by keepers of victualling houses.*—If a keeper of a victualling house commits any of the offences following; that is to say,—

- (1.) Refuses or neglects to receive any officer, soldier, or horse billeted upon him in pursuance of this Act, or to furnish such accommodation as is required by this Act; or
- (2.) Gives or agrees to give any money or reward to a constable to excuse or relieve him from being entered in a list as liable or from his liability to billets, or any part of such liability; or
- (3.) Gives or agrees to give to any officer or soldier billeted upon him in pursuance of this Act, any money or reward in lieu of receiving an officer, soldier, or horse, or furnishing the said accommodation;

he shall, on summary conviction, be liable to a fine of not less than forty shillings and not exceeding five pounds.

CXIX. *Application to Court of summary jurisdiction respecting sums due to keepers of victualling houses or owners of carriages, etc.*

—(1.) The following persons; that is to say,—

- (a) If any officer or soldier fails to comply with the provisions of this part of this Act, with respect to the payment of a sum due to a keeper of a victualling house, or in respect of carriages or animals, or to the making up of an account of the sum due, the person to whom the sum is due; or
- (b) If a keeper of a victualling house suffers any ill-treat-

ment by violence, extortion, or making disturbance in billets from any officer or soldier billeted upon him, or if the owner or driver of any carriage, animal, or vessel furnished in pursuance of this part of this Act suffers any ill-treatment from any officer or soldier, the person suffering such ill-treatment, but, when there is an officer commanding such officer or soldier present at the place only after first making due complaint, if practicable, to such commanding officer, may apply to a Court of summary jurisdiction, and such Court, if satisfied on oath of such failure or such ill-treatment, and of the amount fairly due to the applicant, including the costs of his application to the Court of summary jurisdiction, shall certify the same to a Secretary of State, who shall forthwith cause the amount due to be paid.

(2.) Provided that the Secretary of State, if it appear to him that the amount named in such certificate is not justly due, or is in excess of the amount justly due, may direct a complaint to be made to a Court of summary jurisdiction for the county, burgh, or place for which the Court giving the certificate acted, and the Court after hearing the case may by order confirm the said certificate, or vary it in such manner as to the Court seems just.

CLXXIV. *Licences of canteens.*—(1.) When a person holds a canteen under the authority of a Secretary of State or the Admiralty, it shall be lawful for any two Justices within their respective jurisdictions to grant, transfer, or renew any licence for the time being required to enable such person to obtain or hold any excise licence for the sale of any intoxicating liquor, without regard to the time of year, and without regard to the requirements as to notices, certificates, or otherwise, of any Acts for the time being in force affecting such licences; and excise licences may be granted to such persons accordingly.

(2.) For the purposes of this section the expression licence includes any licence or certificate for the time being required by law to be granted, renewed, or transferred by any Justices of the Peace, in order to enable any person to obtain or hold any excise licence for the sale of any intoxicating liquor.

SECOND SCHEDULE.

PART I.—ACCOMMODATION TO BE FURNISHED BY KEEPER OF VICTUALLING HOUSE.

A keeper of a victualling house on whom any officer, soldier, or horse is billeted—

- (1.) Shall furnish the officer and soldier with lodging and attendance ; and
- (2.) Shall, if required by the soldier, furnish him for every day of the march, and for not more than two days if the soldier is halted at an intermediate place on the march for more than two days, and on the day of arrival at the place of final destination, with one hot meal on each day, the meal to consist of such quantities of diet and small beer as may be from time to time fixed by Her Majesty's Regulations, not exceeding one pound and a quarter of meat previous to being dressed, one pound of bread, one pound of potatoes or other vegetables, and two pints of small beer, and vinegar, salt, and pepper ; and
- (3.) When the soldier is not so entitled to be furnished with a hot meal, shall furnish the soldier with candles, vinegar, and salt, and allow him the use of fire, and the necessary utensils for dressing and eating his meat ; and
- (4.) Shall furnish stable room and ten pounds of oats,

twelve pounds of hay, and eight pounds of straw on every day for each horse.

PART II.—REGULATIONS AS TO BILLETS.

(1.) When the troops are on the march, the billets given shall, except in case of necessity, or of an order of a Justice of the Peace, be upon victualling houses in or within one mile from the place mentioned in the route :

(2.) Care shall always be taken that the billets be made out to the less distant victualling houses in which suitable accommodation can be found, before billets are made out for the more distant victualling houses :

(3.) Except in case of necessity, where horses are billeted, each man and his horse shall be billeted on the same victualling house :

(4.) Except in case of necessity, one soldier at least shall be billeted where there are one or two horses, and two soldiers at least where there are four horses, and so in proportion for a greater number :

(5.) Except in case of necessity, a soldier and his horse shall not be billeted at a greater distance from each other than one hundred yards :

(6.) When any soldiers with their horses are billeted upon the keeper of a victualling house who has no stables, on the written requisition of the commanding officer present, the constable shall billet the soldiers and their horses, or the horses only, on the keeper of some other victualling house who has stables, and a Court of summary jurisdiction, upon complaint by the keeper of the last-mentioned victualling house, may order a proper allowance to be paid to him by the keeper of the victualling house relieved :

(7.) An officer demanding billets may allot the billets among the soldiers under his command and their horses as he

thinks most expedient for the public service, and may from time to time vary such allotment :

(8.) The commanding officer may, where it is practicable, require that not less than two men shall be billeted in one house.

XV.—THE ARMY ANNUAL ACT, 1883.

46 VICT. CAP. 6.

III. *Prices in respect of billeting, 44 and 45 Vict. cap. 58.*—There shall be paid to the keeper of a victualling house for the accommodation provided by him in pursuance of the Army Act, 1881, the prices specified in the schedule to this Act.

SCHEDULE.

Accommodation to be Provided.	Maximum Price.
Lodging and attendance for soldier where hot meal furnished.	Twopence halfpenny per night.
Hot meal as specified in Part I. of the Second Schedule to the Army Act, 1881.	One shilling and one penny halfpenny each.
Where no hot meal furnished, lodging and attendance, and candles, vinegar, salt, and the use of fire, and the necessary utensils for dressing and eating his meat.	Fourpence per day.
Ten pounds of oats, twelve pounds of hay, and eight pounds of straw per day for each horse.	One shilling and ninepence per day.
Lodging and attendance for officer.	Two shillings per night.

Note.—An officer shall pay for his food.

XVI.—CORRUPT PRACTICES PREVENTION ACT, 1883.

46 AND 47 VICT. CAP. 51.

XX. *Use of committee room in house for sale of intoxicating liquor or refreshment, or in elementary school, to be illegal hiring.*—

- (a) Any premises on which the sale, by wholesale or retail, of any intoxicating liquor is authorized by a licence (whether the licence be for consumption on or off the premises) ; or
- (b) Any premises where any intoxicating liquor is sold or is supplied to members of a club, society, or association other than a permanent political club ; or
- (c) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises ; or
- (d) The premises of any public elementary school in receipt of an annual parliamentary grant, or any part of any such premises,

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises, or any part thereof, for a committee room, he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring :

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices, or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct

communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

XXI. Punishment of illegal payment, employment, or hiring.—

(1.) A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2.) A candidate, or an election agent of a candidate, who is personally guilty of an offence of illegal payment, employment, or hiring, shall be guilty of an illegal practice.

XXXVIII. Licensed persons guilty of bribery or treating.—

(8.) With respect to a person holding a licence or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect:—

(a) If it appears to the Court by which any licensed person is convicted of the offence of bribery or treating, that such offence was committed on his licensed premises, the Court shall direct such conviction to be entered in the proper register of licences.

(b) If it appears to an election court or election commissioners that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court or commissioners (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same; and whether such person obtained a certificate of indemnity or not it shall be the duty of the director of public prosecutions to bring such report before the licensing Justices, from whom, or on whose certificate, the licensed person obtained his licence, and such licensing Justices shall cause such report to be entered in the proper register of licences.

(c) Where an entry is made in the register of licences of any such conviction of, or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing Justices in determining whether they will or will not grant to such person the renewal of his licence or certificate, and may be a ground, if the Justices think fit, for refusing such renewal.

(9.) Where the evidence showing any corrupt practice to have been committed by a Justice of the Peace, barrister, solicitor, or other professional person, or any licensed person, was given before election commissioners, those commissioners shall report the case to the director of public prosecutions, with such information as is necessary or proper for enabling him to act under this section.

LXVIII. *Application of Act to Scotland.*—(7.) The authority given by this Act to the director of public prosecutions in England shall, in Scotland, be exercised by Her Majesty's Advocate, and the reference to the Prosecution of Offences Act, 1879, shall not apply.

(8.) The expression 'Licensing Acts' shall mean 'The Public Houses Acts Amendment (Scotland) Act, 1862,' and 'The Publicans' Certificates (Scotland) Act, 1876,' and the Acts thereby amended and therein recited.

(9.) The expression 'register of licences' shall mean the register kept in pursuance of section 12 of the Act of the ninth year of the reign of King George the Fourth, chapter fifty-eight.

XVII.—PUBLIC HEALTH (SCOTLAND) ACT, 1867.

30 AND 31 VICT. CAP. 101.

L. Penalty on persons letting houses in which infected persons have been lodging.—If any person knowingly lets any house, room, or part of a house in which any person suffering from any infectious disorder has been, to any other person without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a qualified medical practitioner, as testified by a certificate given by him, and lodged with the sanitary inspector or other person appointed to perform the duties of sanitary inspector, such person shall be liable to a penalty not exceeding twenty pounds. For the purposes of this section the keeper of an inn or hotel shall be deemed to let part of a house to any person admitted as a guest into such inn or hotel.

XVIII.—THE PREVENTION OF CRIMES ACT, 1871.

34 AND 35 VICT. CAP. 112.

X. Penalty for harbouring thieves, etc.—Every person who occupies or keeps any lodging house, beerhouse, public house, or other house or place where intoxicating liquors are sold, or any place of public entertainment or public resort, and know-

ingly lodges or knowingly harbours thieves or reputed thieves, or knowingly permits or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein, having reasonable cause for believing them to be stolen, shall be guilty of an offence against this Act, and be liable to a penalty not exceeding ten pounds, and in default of payment to be imprisoned for a period not exceeding four months, with or without hard labour, and the Court before which he is brought may, if it think fit, in addition to or in lieu of any penalty, require him to enter into recognizances, with or without sureties, and if in Scotland to find caution for keeping the peace or being of good behaviour during twelve months ; provided that

(1.) No person shall be imprisoned for not finding sureties or cautioners in pursuance of this section for a longer period than three months ; and

(2.) The security required from a surety or cautioner shall not exceed twenty pounds ;

and any licence for the sale of any intoxicating liquors, or for keeping any place of public entertainment or public resort, which has been granted to the occupier or keeper of any such house or place as aforesaid, may, in the discretion of the Court, be forfeited on his first conviction of an offence under this section, and on his second conviction for such an offence his licence shall be forfeited, and he shall be disqualified for a period of two years from receiving any such licence ; moreover, where two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the Court shall direct that for a term not exceeding one year from the date of the last of such convictions no such licence as aforesaid shall be granted to any person whatever in respect of such premises ; and any licence granted in contravention of this section shall be void.

Any licensed person brought before a Court in pursuance of this section shall produce his licence for examination, and if such licence is forfeited shall deliver it up altogether; and if such person wilfully neglects or refuses to produce his licence he shall, in addition to any other penalty under this section, be liable on summary conviction to a penalty not exceeding five pounds: provided that any person convicted under this section shall have a right to appeal against such conviction in the same manner in all respects as if the said conviction had been for an offence committed against the provisions of the Act of the ninth George the Fourth, chapter sixty-one.

Note.—The latter portion of the foregoing section, viz., from ‘provided that any person’ to the end of the section, has been repealed by ‘The Statute Law Revision (Substituted Enactments) Act, 1876,’ section 5 of which enacts that—

‘Any person convicted under section 10 of “The Prevention of Crimes Act, 1871,” shall have a right to appeal against such conviction in the same manner in all respects as a person may appeal who feels aggrieved by a conviction made by a Court of summary jurisdiction under the Licensing Act, 1872, and all the provisions of such last-mentioned Act, and of any Act amending the same, relating to an appeal from a conviction made by a Court of summary jurisdiction under such last-mentioned Act, shall apply accordingly.’

XIX.—COUNTY POLICE ACT, 1857.

20 AND 21 VICT. CAP. 72.

XXIV. *Penalty on publicans harbouring constables during the hours of duty.*—If any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any constable appointed under this Act, or permit such constable to abide or remain in his house, shop, room, or other place, to the neglect of his duty, during any part of the time appointed for his being on such duty, every such victualler or keeper as aforesaid, being convicted thereof, shall for every such offence forfeit and pay any sum not exceeding five pounds.

XX.—THE GENERAL POLICE AND IMPROVEMENT (SCOTLAND) ACT, 1862.

25 AND 26 VICT. CAP. 101.

CCCXVIII. *Brokers not to carry on business of publicans, nor to purchase tickets of pawnbrokers.*—It shall not be lawful for any broker or any pawnbroker to carry on business as a publican or retailer of exciseable liquors, nor for any broker to purchase, receive, or take the note or ticket of any pawnbroker for any goods or articles which have been pawned, or to contract or negotiate in any manner with the holder of any

such note or ticket, or any person in his behalf, for the purchase of goods or articles specified therein; and if any broker shall offend herein, either by himself or his servant, or any other person having the charge of his premises, and for whom in such case he shall be held responsible, such broker shall for every such offence be liable to a penalty not exceeding five pounds.

CCCXXXVI. *Penalty on victuallers entertaining constables while on duty.*—Every person keeping any house, shop, room, place of public resort, or other premises within the burgh, who knowingly harbours or entertains or suffers to remain in his house, shop, room, or premises any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, or otherwise in the execution of his duty, shall for every such offence be liable to a penalty not exceeding twenty shillings.

CCCXXXVIII. *Officers may enter public houses on hearing disorderly noise therein.*—The superintendent of police or any constable shall have power, by virtue of his office, at any time to enter any building or part of a building, or other place of the following description, on hearing any disorderly noise therein, or having reason to believe or suspect that persons accused or reasonably suspected of having committed any offence in respect of which imprisonment may be awarded, or that any articles known or suspected to have been stolen or fraudulently obtained, are to be found therein; viz.,

Any victualling house, public house, or house in which wine, spirits, beer, cider, or other fermented or distilled liquors are sold, whether licensed or not:

And if the keeper of any such building or part of a building

or other place, or any servant or other person having the charge thereof,

shall not admit such superintendent or constable when required, such person shall for every such offence forfeit and pay a sum not exceeding five pounds.

CCCXXXIX. *Penalty for purchasing wearing apparel or taking pawn for spirituous liquors, or supplying liquors to persons under fourteen years of age.*—Any person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors by retail who shall purchase or receive in pawn any article of wearing apparel, or bed clothes, or any goods, as the price or as security for the price of any fermented or distilled liquors, shall be liable in a penalty not exceeding five pounds, and in the case of such pawn the article so received shall be restored to the owner ; and any person licensed as aforesaid who shall supply any sort of fermented or distilled liquors to and for the use on the premises of such person of any boy or girl apparently under fourteen years of age, shall be liable for the first offence to a penalty not exceeding one pound, for the second offence to a penalty not exceeding two pounds, and for a third offence to a penalty not exceeding five pounds.

LOCAL STATUTES.

XXI.—THE GLASGOW POLICE ACT, 1866.

29 AND 30 VICT. CAP. 273.

CXVI. Procedure in cases under Acts relating to publicans and weights and measures.—Every proceeding or trial before the Magistrate in pursuance of the Acts relating to publicans and retailers of ale, beer, spirits, wine, and other exciseable liquors, hereinafter enumerated under the head of ‘Offences against the Acts relating to Public Houses,’ and in pursuance of the Acts relating to weights and measures, hereinafter enumerated under the head of ‘Special Provisions—Weights and Measures, Sale of Coal,’ shall be conducted according to the provisions of the said Acts, and every order or sentence of the Magistrate therein may be enforced, and shall only be subject to review to the extent provided by the said Acts respectively ; and all penalties awarded or forfeitures made in pursuance of the said Acts shall be disposed of and applied in the way thereby required, or, in so far as not thereby required, in the same way as penalties awarded and forfeitures made in pursuance of this Act.

CXXXV. Offences against the rules of good conduct.—(16.) Every person who occupies a building or part of a building or other place of public resort for the sale or consumption of provisions or refreshments of any kind, who knowingly suffers to remain

in his premises any constable on duty, unless for the purpose of quelling any disturbance or restoring order, or who directly or indirectly supplies such constable with liquor, shall be liable to a penalty of five pounds, or in default of payment to imprisonment for thirty days.

CL. *Offences against the Acts relating to public houses to be tried as police offences.*—All offences committed within the city against the Acts relating to publicans and retailers of ale, beer, spirits, wine, and other exciseable liquors, passed in the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, and in the eleventh and twelfth year of the reign of Her present Majesty, chapter forty-nine, and in the sixteenth and seventeenth year of the reign of Her present Majesty, chapter sixty-seven, and the Act passed in the twenty-fifth and twenty-sixth year of the reign of Her present Majesty, chapter thirty-five, may be tried by the Magistrate as police offences.

XXII.—THE EDINBURGH MUNICIPAL AND POLICE ACT, 1879.

42 AND 43 VICT. CAP. 132.

CVII. *Water-closets and urinals in public houses, etc.*—The Magistrates and Council may make an order on the owner or occupier of any hotel, public house, beerhouse, eating house, or other place of public entertainment or resort, to provide and maintain, within or adjoining to his premises, water-closets and urinals to their satisfaction, and every such order shall specify the time within which it shall be incumbent on such owner or occupier to provide such water-closets and urinals; and every person who shall fail to comply with such

order shall be liable to a penalty not exceeding five shillings for every day during which such failure continues after the expiration of the period specified in such order; and the Magistrates and Council may order any owner or occupier as aforesaid to remove any water-closet or urinal in or adjoining such place of entertainment or resort if it appear to them to be so situated or constructed, or to be in such a state as to be a nuisance or offensive to public decency or otherwise objectionable, and may order the substitution of such other convenience as they may deem proper; and all such urinals shall be cleansed once in twenty-four hours, by or under the direction of the occupier of the house or place to which they belong, to the satisfaction of the inspector of cleansing, and in default thereof such occupier shall be liable to a penalty not exceeding forty shillings.

CCXVII. *Penalty on letting without disinfection houses in which infected persons have been lodging.*—Every person who knowingly lets for hire any house, room or part of a house in which any person has been suffering from any infectious or contagious disease aforesaid without having such house, room or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the medical officer of health, as testified by a certificate signed by him, shall be liable to a penalty not exceeding five pounds. For the purposes of this section the keeper of an hotel, inn, or public house for reception of guests shall be deemed to let for hire part of a house to any person admitted as a guest.

CCLXXXII. *Constables may enter certain premises.*—Any constable shall have power, by virtue of his office, at any time to enter any premises or other place of the following description, viz. :—

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- (4.) Any victualling house, public house, house or building in which wine, spirits, beer, cider, or other exciseable or fermented or distilled liquors are sold or suspected to be sold, whether licensed or not :

And every occupier or keeper of any such premises or other place, or other person having the charge thereof, who shall not admit such constable when required, shall be liable to a penalty not exceeding ten pounds.

CCCXIX. *Prosecutions under Public Houses Acts.*—Every person who shall commit any offence against the provisions of the Acts passed in the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, and in the sixteenth and seventeenth year of the reign of Her present Majesty, chapter sixty-seven, and of the twenty-fifth and twenty-sixth year of the reign of Her said Majesty, chapter thirty-five, or any breach of the regulations of the certificates granted by virtue thereof, may be prosecuted before the judge of police ; and every such offence or breach shall be proceeded with, tried, and determined, and all penalties incurred shall be recovered and applied by the judge of police in the manner and subject to the conditions provided in the said Acts.

XXIII.—EDINBURGH MUNICIPAL AND POLICE EXTENSION ACT, 1882.

45 AND 46 VICT. CAP. 161.

XXII. *Public Houses and Licensing Acts, 25 and 26 Vict. cap. 35 ; 39 and 40 Vict. cap. 26 ; 40 and 41 Vict. cap. 3.*—All applications for certificates under the Public General Acts,

passed in the ninth year of the reign of King George IV. cap. 58, and in the sixteenth and seventeenth years of the reign of Her present Majesty, cap. 67, the Public Houses Acts Amendment (Scotland) Act, 1862; the Publicans' Certificates (Scotland) Act, 1876; and the Publicans' Certificates (Scotland) Act (1876) Amendment Act, 1877, or any Acts amending the same in reference to premises within the burgh, shall be made to and be disposed of by the Magistrates, who shall exercise within the burgh all the powers and perform all the duties conferred or imposed by those Acts or any of them, as to granting such certificates, and all appeals and confirmations of deliverances of the Magistrates shall be made to and be disposed of according to the provisions of the said Acts; and for the purpose of such licensing, the Justices of the Peace of the county of the city of Edinburgh shall have jurisdiction over the burgh.

XXIII. *Provision as to subsisting licences in districts annexed.*—All certificates of licence before the commencement of this Act granted for the county of Edinburgh, within the districts annexed by the Justices of the Peace for the county of Edinburgh, and then in force, shall, unless the same shall be revoked or shall previously expire, subsist and continue until the fifteenth day of May 1884; and with reference to such certificates, all prosecutions for offences against the Public Houses and Licensing Acts or any of them, or for any breach of the regulations of such certificates, shall be proceeded with in the same way as if such certificates had been originally granted within the existing burgh, and all applications for renewal or the transfer of such certificates shall after the commencement of this Act be disposed of by the Magistrates.

XXIV. *Justices of the Peace for limits of 11 and 12 Vict. cap. 113, and of burgh.*—Her Majesty and her royal successors may, from time to time as heretofore, nominate and appoint special Justices of the Peace for the county of the city of

Edinburgh, and the limits of the Edinburgh Police Act, 1848, and also of the burgh.

XXV. *Sessions of the Peace*.—The Justices of the Peace who are or may be so appointed shall hold Quarter, Special, and Petty Sessions on the same days and in the same manner as Justices of the Peace of shires, counties, and other districts in Scotland.

XXIV.—THE DUNDEE POLICE AND IMPROVEMENT CONSOLIDATION ACT, 1882.

45 AND 46 VICT. CAP. 185.

CLVI. *Urinals, etc., attached to public houses, etc.*—The commissioners may order the owner or occupier of any inn, public house, beerhouse, eating house, cookshop, or other place of public entertainment, built before or after the commencement of this Act, to provide within such time as the commissioners think fit, and thenceforward to maintain upon or adjoining to his premises, water-closets and urinals, one or more, to the satisfaction of the commissioners; and if any person fails in any respect to comply with the provisions of the present section, he shall be liable to a penalty not exceeding five shillings for every day during which such failure continues after the expiration of fourteen days from the service of such order on him; and the commissioners may order the owner and occupier of any building or lands to remove any water-closet or urinal belonging thereto, where it appears to them so situated or constructed as to be a nuisance, or offensive to public decency, or otherwise objectionable.

CLVII. *Urinals to be cleansed*.—All urinals shall be cleansed once in twenty-four hours by the occupier of the house or

place to which they belong, to the satisfaction of the commissioners, and in default thereof such occupier shall be liable to a penalty not exceeding forty shillings for every such offence.

CCXXV. *Constables may enter certain premises.*—Any constable shall have power, by virtue of his office, at any time to enter any premises or other place of the following description, viz. :—

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- (4.) Any victualling house, public house, house or building in which wine, spirits, beer, cider, or other exciseable or fermented or distilled liquors are sold, or suspected to be sold, whether licensed or not;

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And therein to aid in the preservation of order and in the restoration of order in case of disturbance, and in carrying into effect the provisions of this Act or any bye-laws made thereunder; and every occupier or keeper of any such premises or other place, or other person having the charge thereof, who shall not admit such constable when required, shall be liable to a penalty not exceeding ten pounds.

CCLIX. *Penalty for selling unwholesome liquor, etc.*—Every person who sells or exposes for sale, or keeps for the purpose of sale, any liquor which is unfit for the use of man, shall be liable to a penalty not exceeding ten pounds.

CCLXI. *Power to enter premises and seize liquor, etc.*—It shall be lawful for the superintendent of police, or any other person or persons appointed by the commissioners for the purpose, to enter upon any premises and seize, impound, and convey to the police office any food or liquor sold or exposed for sale, or kept in any place used for the sale of any such articles, in

respect of which there is reasonable ground for supposing that an offence has been committed under the provisions of this Act; and if such offence be found to have been committed, and a penalty be imposed, it shall be lawful for the Magistrate to declare any such article forfeited.

XXV.—THE ABERDEEN POLICE AND WATER WORKS ACT, 1862.

25 AND 26 VICT. CAP. 203.

CCXXI. *Brokers not to carry on business of publicans.*—It shall not be lawful for any broker or any pawnbroker to carry on business as a publican or retailer of exciseable liquors; nor for any broker to purchase, receive, or take the note or ticket of any pawnbroker for any goods or articles which have been pawned, or to contract or negotiate in any manner with the holder of any such note or ticket, or any person in his behalf, for the purchase of goods or articles specified therein; and every broker who shall offend herein, either by himself or his servant, or any other person having the charge of his premises, and for whom in such case he shall be held responsible, shall for every such offence be liable to a penalty not exceeding five pounds.

CCXXXII. *Penalty on victuallers entertaining constables while on duty.*—Every victualler or keeper of any public house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors by retail, to be drunk or consumed on the premises, within the limits of this Act, who knowingly harbours or entertains or suffers to remain in his public house or place wherein he carries on his business, any constable during any part of the time appointed for his being on duty,

unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding twenty shillings.

XXVI.—THE ABERDEEN MUNICIPALITY EXTENSION ACT, 1871.

34 AND 35 VICT. CAP. 141.

XXI. *Jurisdiction under Public Houses Act.*—From and after the completion of the first election and induction into office of the Town Council under this Act, the Magistrates shall have, possess, and exercise over the city, all the jurisdictions, powers, rights, and authorities which they now have, possess, and exercise over the burgh, under and in virtue of the Public General Acts passed in the ninth year of the reign of King George the Fourth, chapter fifty-eight, intituled ‘An Act to regulate the granting of Certificates by Justices of the Peace and Magistrates, authorizing Persons to keep Common Inns, Ale Houses, and Victualling Houses in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by retail under Excise Licences, and for the better Regulation of such Houses, and for the Prevention of such Houses being kept without such Certificates;’ and in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter sixty-seven, intituled ‘An Act for the better Regulation of Public Houses in Scotland;’ and in the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter thirty-five, intituled ‘The Public Houses Acts Amendment (Scotland) Act, 1862,’ and any other Act or Acts of Parliament in reference to the regulation of public houses.

CLII. *Officers may enter public houses on hearing disorderly*

wise therein.—Any constable shall have power, by virtue of his office, at any time to enter any building, or part of a building, or other place of the following description, on hearing any disorderly noise therein, or having reason to believe or suspect that persons accused or reasonably suspected of having committed any offence, or that any articles known or suspected to have been stolen or fraudulently obtained, are to be found therein, viz. :—

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 Any victualling house, public house, or house in which wine, spirits, beer, cider, or other fermented or distilled liquors are sold or suspected to be sold, whether licensed or not ;

And if the keeper of any such building or part of a building, or other place, or any servant or other person having the charge thereof, shall not admit such constable when required, such person shall for every such offence forfeit and pay a fine not exceeding five pounds.

XXVII.—GREENOCK POLICE ACT, 1877.

40 AND 41 VICT. CAP. 193.

CXLV. *Urinals, etc., attached to public houses, etc.*—The Board may order the owner or occupier of any inn, public house, beerhouse, eating house, cookshop, or other place of public entertainment, or of any place of public amusement, built before or after the commencement of this Act, to provide within such time as the Board think fit, and thenceforward to maintain upon or adjoining to his premises, or at

such place or places as the Board shall point out or provide, water-closets and urinals, to the satisfaction of the Board; and if any person fails in any respect to comply with the provisions of this clause, he shall be liable to a penalty not exceeding five shillings for every day during which such failure continues after the expiration of fourteen days from the service of such order on him; and the Board may order the owner or occupier of any building or lands to remove any water-closet or urinal belonging thereto, where it appears to them so situated or constructed as to be a nuisance, or offensive to public decency, or otherwise objectionable.

CXLVI. *Urinals to be cleansed.*—All urinals shall be cleansed once in twenty-four hours, by or under the direction of the occupier of the house or place to which they belong, to the satisfaction of the Board; and in default thereof, such occupier shall be liable to a penalty not exceeding forty shillings for every such offence.

CCLII. *Procedure in cases under Acts relating to publicans and weights and measures.*—Every proceeding or trial before the Magistrate in pursuance of the Acts relating to publicans and retailers of ale, beer, spirits, wine, and other exciseable liquors, or in pursuance of the Acts relating to weights and measures, hereinbefore enumerated, under the head of 'Prevention of Fraud, Weights and Measures, Sale of Coals,' etc., shall be conducted according to the provisions of the said Acts, and every order or sentence of the Magistrate therein may be enforced, and shall only be subject to review to the extent provided by the said Acts respectively; and all penalties awarded, or forfeitures made, in pursuance of the said Acts, shall be disposed of and applied in the way thereby required, or in so far as not thereby required, in the same way as penalties awarded and forfeitures made in pursuance of this Act.

CCCCXIV. *As to public houses beyond Parliamentary boun-*

dary.—The superintendent of police, and the various officers and constables acting under him, shall have and may exercise the same powers with respect to any public houses, hotels, or other premises used for the sale of exciseable liquors beyond the Parliamentary boundary of Greenock, but within the limits of the town, as defined by this Act, that they have or may exercise with respect to licensed premises within the Parliamentary boundary.

CCCCXVI. *Penalty on drunken and disorderly persons refusing to quit licensed houses on request—Constables to assist in expelling them if required.*—Any person who shall be drunk, riotous, quarrelsome, or disorderly, in any shop, house, premises, or place licensed for the sale of beer, wine, or spirituous liquors, by retail, to be consumed on the premises, or for refreshment, resort, and entertainment, under the provisions of this Act, and shall refuse or neglect to quit such shop, house, premises, or place, upon being requested so to do by the manager or occupier, or his agent or servant, or by any constable, shall, on conviction thereof before a Magistrate, be liable to pay a fine not exceeding forty shillings; and all constables are hereby authorized, empowered, and required, on the demand of such manager, occupier, agent, or servant, to assist in expelling such drunken, riotous, quarrelsome, and disorderly persons from such shops, houses, premises, and places.

INLAND REVENUE STATUTES.

XXVIII.—SPIRITS ACT, 1880.

43 AND 44 VICT. CAP. 24.

XCVI. Application to dealers and retailers of certain provisions relating to distillers.—The first, second, and sixth rules contained in the seventh part of the first schedule and the rules contained in the eighth part thereof, with the corresponding penalties, and the provisions of this Act with respect to the following matters :—

(a) Penalty for interference with or attempt to defeat gauging, and

(b) Penalties for frauds and offences in relation to vessels and utensils,

shall apply to every dealer and retailer as if he were a distiller.

XCVII. Dealers and retailers to make entry.—Every dealer and retailer must, in accordance with the prescribed regulations, make entry in writing, signed by him, of every building, room, place, fixed cask, vessel, and utensil intended to be used by him for keeping spirits, distinguishing each place or thing by a separate letter or number.

XCVIII. Marking casks.—(1.) There must be legibly cut,

branded, or painted with oil colour, on some conspicuous part of every fixed cask or other vessel, used by a dealer or retailer for holding spirits in stock, and on the outside of both the ends of every moveable cask used by him for keeping or delivering spirits, the number of gallons which the cask or vessel is capable of containing.

(2.) Every cask or vessel which does not bear the capacity thereof so cut, branded, or painted shall be forfeited with the contents, and the dealer or retailer shall incur a fine of fifty pounds.

XCIX. *Marking strength of certain spirits.*—(1.) Where the strength of any spirits forming part of the stock of a dealer or retailer cannot be ascertained by Sykes' hydrometer, the dealer or retailer must, on being so required by an officer, cause the quantity and strength of the spirits to be legibly marked on the outside of the cask or vessel containing them.

(2.) Every cask or vessel which a dealer or retailer neglects or refuses, on being so required, to mark, or fails to keep so marked, or which is found to be untruly marked, shall be forfeited with the contents, and the dealer or retailer shall for each offence incur a fine of fifty pounds.

(3.) But a cask or vessel shall not be deemed to be untruly marked within the meaning of this section if the strength denoted by the mark corresponds with that expressed in the permit or certificate with which the spirits were received into stock, and no alteration has since been made in the spirits.

C. *Restriction on grant of dealer's licence to distiller.*—(1.) A distiller shall not be licensed to carry on the business of a dealer upon any premises within two miles from his distillery unless those premises are first approved by the Commissioners.

(2.) If a distiller carries on the business of a dealer on any approved premises within two miles from his distillery,

no spirits shall be removed from such premises unless accompanied by a permit, and if any spirits are removed without a permit he shall incur the same fine and forfeiture as if the removal had been from his spirit store.

CI. *Situation of dealer's and retailer's premises.*—(1.) A dealer or retailer must not carry on his business upon any premises communicating otherwise than by an open public street or carriage road with any premises entered or used by a distiller, or a rectifier keeping a still.

(2.) A retailer must not be concerned or interested in the business of a distiller, or of a rectifier keeping a still, carried on upon any premises within two miles from the premises on which he is licensed to carry on the business of a retailer.

(3.) If a dealer or retailer contravenes this section he shall for each offence incur a fine of two hundred pounds.

CII. *Restrictions on sale by dealers and retailers.*—(1.) A dealer must not, unless he has an additional licence authorizing him so to do, or is also licensed as a retailer, sell, send out, or deliver spirits in any less quantity than two gallons of the same denomination at a time for the same person.

(2.) A retailer must not, unless he is also licensed as a dealer, sell, send out, or deliver spirits to a rectifier, dealer, or retailer, or buy or receive spirits from another retailer, not being also licensed as a dealer.

(3.) A dealer or retailer must not receive, send out, or have in his possession any British spirits of any strength exceeding that at which a distiller may send out spirits of the like denomination.

(4.) If a dealer or retailer contravenes this section he shall for each offence incur a fine of fifty pounds, and in case of the spirits being of unlawful strength they shall be forfeited.

CIII. *Penalty for excess in stock of dealer or retailer.*—(1.) An

officer may at any time take an account of the quantity of spirits in the stock or possession of a dealer or retailer.

(2.) If the quantity of spirits computed at proof found on taking the account exceeds the quantity which ought according to the stock-book of the dealer or retailer to be in his possession, the excess shall be forfeited, and the dealer or retailer shall incur a fine of twenty shillings for every gallon of the excess.

CIV. *Meaning of sale by retail.*—The sale of spirits in any quantity less than two gallons, or less than one dozen reputed quart bottles, shall be deemed sale by retail.

CV. *Spirits required to be accompanied by permit or certificate.*
—(1.) No spirits may be sent out or delivered from a distiller's store unless accompanied by a permit.

(2.) No spirits may be removed from a distiller's or Excise warehouse unless accompanied by a permit.

(3.) No spirits may be removed from a Customs warehouse (the same not being under bond on removal from one such warehouse to another such warehouse) unless accompanied by a Customs certificate from an authorized officer of Customs.

(4.) No spirits may be sent out or delivered from the stock of a rectifier unless accompanied by a certificate.

(5.) No spirits may be sent out or delivered from the stock of a dealer unless accompanied by a certificate, except spirits not exceeding in quantity one gallon at a time sold by him under an additional licence or a licence to retail to a person not being a dealer or retailer.

(6.) No spirits exceeding in quantity one gallon of the same denomination at a time for the same person may be sent out or delivered from the stock of a retailer unless accompanied by a certificate.

(7.) Except as in this section is provided, no spirits exceeding the quantity of one gallon of the same denomination at

a time for the same person may be sent out, delivered, or removed from any one place to any other place unless accompanied by a permit.

(8.) All spirits found to have been sent out, delivered, or removed, or in course of being sent out, delivered, or removed in contravention of this section, together with all horses, cattle, carriages, and boats made use of in conveying the same, shall be forfeited; and every person in whose possession the same are found shall incur a fine of one hundred pounds, or at the election of the Commissioners or the Commissioners of Customs a fine equal to treble the value of the spirits.

(9.) If any question arises as to the accuracy of the description of spirits in a permit or certificate, the proof that the spirits correspond to the description shall lie on the owner or claimant of the spirits, who shall prove the same by the oaths of two credible witnesses, being skilful and experienced persons competent to decide by examination thereof.

CVI. *Mode of obtaining permit.*—(1.) A permit shall be granted by the proper officer upon a request not signed by a distiller or other person requiring a permit and delivered to the officer.

(2.) The request note must contain the particulars specified in that behalf in the Fourth Schedule.

(3.) The permit must contain all the particulars specified in the request note, and shall be in force for such limited time only as may be mentioned in the permit.

(4.) A permit shall not be granted to a distiller for any less quantity of spirits than nine gallons contained in one cask, or if the spirits are bottled, for any quantity less than five dozen imperial or reputed quart bottles, or ten dozen imperial or reputed pint bottles.

(5.) A permit shall not be granted for the removal of

spirits from the stock of a distiller (except for spirits to be warehoused) unless the receipt for the duty on the spirits to be removed be produced with the request note.

(6.) The officer must indorse on the receipt the quantity of spirits for which the permit is granted and the date of the permit.

CVII. *Penalties for removal of spirits without permit and fraudulent use of permit.*—(1.) If any person—

- (a) Sends out, delivers, removes, or receives any spirits required to be accompanied by a permit without a permit ; or
- (b) Sends out, delivers, removes, or receives any spirits in quantity greater than, or differing in quality, denomination, or strength from that expressed in the permit accompanying the same ; or
- (c) Having obtained a permit, does not send out therewith the spirits therein described or return the permit to the proper officer within the time by law required ; or
- (d) Requests, obtains, or uses any permit, or causes or suffers any permit to be requested, obtained, or used for any purpose other than that of accompanying the removal and delivery of spirits therein described ; or
- (e) Produces, or causes, or suffers to be produced to any person any permit as having been received with spirits other than those therein described ; or
- (f) In any manner uses, or causes, or suffers to be used, any permit so that any account of spirits kept or checked by an officer may be frustrated or evaded ;

he shall, in addition to any other penalty or forfeiture, incur a fine of five hundred pounds.

(2.) Every permit used for any purpose other than that of accompanying the removal and delivery of the spirits for

which it is granted and as therein expressed, shall be deemed to be a false permit, and any unlawful use thereof shall, in addition to any other penalty or forfeiture, subject the person using it to all penalties and forfeitures imposed by law upon any person for using a false permit.

(3.) If a distiller, rectifier, dealer, or retailer is convicted of an offence against this section he shall forfeit his licence, and no new licence shall be granted to him for the remainder of the year for which such forfeited licence would have been in force.

CVIII. *Certificate book*.—(1.) Every rectifier, dealer, and retailer must, by written request, obtain from the proper officer a certificate book containing forms of certificates and counterfoils, for which he must give a receipt.

(2.) Before sending out or delivering any spirits required to be accompanied by a certificate, he must enter in one of these certificates, and in its counterfoil, the particulars specified in that behalf in the Fourth Schedule, and must sign the certificate.

(3.) He must deliver the certificate with the spirits to the person to whom the spirits are entered in the certificate.

(4.) He must use the certificates in the order in which they are numbered in the certificate book.

(5.) He must keep the certificate book in his premises, open to inspection by any officer, and must allow any officer to make entry therein, or take any extract therefrom.

(6.) He must return the certificate book when it is exhausted, or on request, to the proper officer, who shall give a receipt for it.

CIX. *Penalties in case of removal of spirits without certificate*.—

(1.) If a rectifier, dealer, or retailer sends out, delivers, or receives any spirits required to be accompanied by a certificate without a certificate or accompanied by an inaccurate certificate, he shall for each offence incur a fine of one hundred pounds,

and all spirits sent out, delivered, or received in contravention of this section shall be forfeited.

(2.) A penalty shall not be incurred under this section by reason only of the spirits being in strength not more than one per centum above or two per centum below the strength expressed in the certificate.

CX. *Fraudulent use of certificate.*—(1.) If a rectifier, dealer, or retailer uses or suffers to be used any certificate taken from his certificate book, except for the removal of spirits from his own stock, or delivers or parts with any form of certificate without filling it up, as required by this Act, he shall for each offence incur a fine of five hundred pounds.

(2.) If any person uses a certificate or form of certificate, whether filled up or not, so that the account of spirits kept or checked by an officer, or any examination of spirits by an officer, is or may be frustrated or evaded, he shall for each offence incur a fine of five hundred pounds.

(3.) If a rectifier, dealer, or retailer is convicted of an offence under this section, he shall forfeit his licence, and no new licence shall be granted to him for the remainder of the year for which such forfeited licence would have been in force.

CXI. *Cancelling and delivery of permits and certificates.*—

(1.) Every rectifier, dealer, and retailer must on receiving spirits accompanied by a permit or certificate, immediately cancel the permit or certificate in the prescribed manner, and must deliver the cancelled permit or certificate to the officer who first inspects his premises after the receipt thereof.

(2.) If any person contravenes this section he shall incur a fine of fifty pounds.

(3.) But no penalty shall be incurred for the failure to deliver a permit or certificate if it is proved that the failure is caused by the permit or certificate having been lost or destroyed more than three months after the date thereof.

CXII. *Stock book*.—(1.) Every rectifier, dealer, and retailer must provide himself with and keep a stock book according to a pattern to be obtained on application to the proper officer, and must, on receiving any spirits, and also on sending out or delivering any spirits required to be accompanied by a certificate, enter in his stock book the particulars specified in that behalf in the Fourth Schedule.

(2.) He must make these entries at such times as an officer directs, or in the absence of any such direction, before the expiration of the day on which the spirits are received, sent out, or delivered.

(3.) He must keep the stock book in his premises, open to inspection by any officer, and must allow any officer to make any entry therein or take any extract therefrom.

(4.) He must keep it open to such inspection for not less than twelve months after it is filled up.

CXIII. *Offences with respect to certificate books and stock books*.—
If a rectifier, dealer, or retailer—

- (a) Fails to obtain, provide, keep, produce, or return a certificate book or a stock book as by this Act required, or to make therein respectively the entries by this Act required; or
- (b) Hinders or obstructs any officer in examining a certificate book or a stock book, or in making any entry therein or extract therefrom; or
- (c) Cancels, alters, obliterates, or destroys any part of a certificate book or a stock book or any entry therein; or
- (d) Makes a false entry in a certificate book or a stock book; or
- (e) Separates any certificate, or form of certificate, from its counterfoil without properly filling up the certificate and counterfoil, or except on the occasion of sending out or delivering spirits therewith,

he shall for each offence incur a fine of one hundred pounds.

CXLI. *Power to enter premises of dealer or retailer and examine and take samples.*—An officer may at any time enter the premises of a dealer or retailer and inspect and examine the spirits in his stock or possession, and take samples of any such spirits, paying for any sample so taken the usual price thereof.

CXLII.—*Distillers, etc., to assist in taking account.*—Every distiller, rectifier, dealer, and retailer must, when required by an officer, assist him by a sufficient number of servants in taking account of his stock, and shall for any neglect or refusal so to assist incur a fine of fifty pounds.

CXLVI. *Unlawful hawking and sale of spirits.*—(1.) If any person hawks, sells, or exposes to sale any spirits otherwise than in premises for which he is licensed to sell spirits, he shall incur a fine of one hundred pounds, and the spirits shall be forfeited.

(2.) The sum to which the fine may be mitigated in Scotland shall not be less than twenty-five pounds, or, in Ireland, shall not be less than six pounds.

(3.) In default of payment of the fine on summary conviction the offender shall be imprisoned with or without hard labour. The term of imprisonment in Scotland or Ireland shall be not less than two months nor more than three months.

(4.) Any person may arrest a person found committing an offence against this section.

CXLVII. *Sale of spirits for unlawful purposes.*—If any person knowingly sells or delivers, or causes to be sold or delivered, any spirits to the end that they may be unlawfully retailed or consumed, or carried into consumption, he shall, in addition to any other penalty, incur a fine of one hundred pounds.

CXLVIII. *Unlawful purchase of spirits.*—If any person receives, buys, or procures any spirits from a person not having authority to sell or deliver the same, he shall incur a fine of one hundred pounds.

CXLIX. *Penalty for possession of spirits on which duty has not*

been paid.—If any person knowingly buys or receives, or has in his possession any spirits after they have been removed from the place where they ought to have been charged with duty and before the duty payable thereon has been charged and paid or secured to be paid or the spirits have been condemned as forfeited, he shall forfeit the spirits and incur a fine equal to treble the value of the spirits.

CL. *Forcibly opposing execution of Act.*—A person shall incur a fine of five hundred pounds if he commits any of the following offences :—

- (a) Assaults an officer acting under this Act, or any person acting in his aid.
- (b) Assaults any person who has discovered or given, or is about to discover or give information or evidence against, or has seized, or is bringing to justice, any offender against this Act.
- (c) Assaults any person who has seized or is about to seize or examine any goods as forfeited under this Act.
- (d) Forcibly opposes the execution of any of the powers given.
- (e) Being armed with an offensive weapon, or in a violent manner, rescues any offender arrested or goods seized under this Act, or prevents the arrest of any such offender or seizure of any such goods, or offers or threatens to oppose the execution of any of the powers given by this Act.

CLI. *Misconduct of and collusion with officers.*—Every person shall incur a fine of five hundred pounds who, in or with reference to any matter under the laws of excise relating to the duties on spirits,

- (a) Not being authorized so to do, gives or promises to give, directly or indirectly, any reward to an officer or a person employed by the Commissioners, in respect of the performance or non-performance by

any such officer or person of his duty or employment ;
or

- (b) Agrees with or proposes to any such officer or person to do or permit to be done anything in contravention or evasion of this Act, or of his duty ; or
- (c) Being an officer or a person employed by the Commissioners—
 - (i.) Demands or receives, except from or through the Commissioners, any reward in respect of the performance or non-performance of his duty or employment ;
 - (ii.) By any wilful act, neglect, or default does, or permits, or agrees to do or permit anything in contravention or evasion of this Act or of his duty.

If any such officer or person is convicted of either of these offences he shall be thereafter disqualified from serving Her Majesty in any office or employment.

CLII. *Obstruction of officers.*—If any person by himself or by any person in his employment obstructs, hinders, or molests an officer or an officer of Customs in the execution of his duty, or any person acting in the aid of any such officer, he shall incur a fine of two hundred pounds, and if the offender is a distiller the Commissioners may, upon his conviction, suspend or revoke his licence.

CLIII. *Neglect of duty by officer of the peace.*—If any officer of the peace wilfully refuses or neglects to aid in the execution of this Act, he shall, on summary conviction, incur a fine of twenty pounds.

CLIV. *Provisions as to forfeiture.*—(1.) Where any spirits or goods are forfeited under this Act they may be seized by an officer or an officer of Customs.

(2.) Where any spirits or materials for making spirits are

forfeited under this Act, all casks or other utensils containing the same shall also be forfeited.

(3.) Where any spirits are forfeited by an excise trader, the Commissioners may, if they think fit, take from his stock, instead of the spirits forfeited, the same quantity of any other spirits.

FIRST SCHEDULE.

PART VII.—DIPPING HOLES.

1. At or near the top of every entered cask or vat for storing or keeping spirits on the premises of a distiller, there must be a dipping hole at which an officer may conveniently take his dip or gauge of the contents of the vessel.

2. A metal plate must be fixed at the dipping hole to secure it from being worn or altered.

6. No alteration must be made in the dipping hole or level of any vessel or utensil.

PART VIII.—PROVISION AND SITUATION OF ARTICLES REQUIRED OR ALLOWED.

1. Every distiller must, at his own expense, and to the satisfaction of the Commissioners, provide, place, affix, and maintain each utensil and fitting allowed or required by this Act.

2. Every distiller must, to the satisfaction of the Commissioners, place and keep each vessel and utensil on his premises in a convenient situation, and so as to be easy of access to the officer.

FOURTH SCHEDULE.

Particulars to be specified in Request Note for Permit.

Quantity and strength of spirits for which the permit is required.

Casks or other vessels in which the spirits are contained.

From whom and whence the spirits are to be sent.

To whom and whither the spirits are to be sent.

Mode of conveyance.

Particulars to be specified in Certificate.

Quantity, denomination, and strength of spirits sent out or delivered.

Number of casks or packages in which the spirits are contained.

Day and hour of sending out or delivery.

From whom and whence sent or delivered.

To whom and whither sent or delivered.

Mode of conveyance.

*Particulars to be entered in Stock Book.**On receipt :—*

Quantity, denomination, strength and gallons computed at proof of spirits received.

Date of receipt.

From whom and whence received.

On sending out or delivery :—

Quantity, denomination, strength and gallons computed at proof of spirits sent or delivered.

Date of sending out or delivery.

To whom or whither sent or delivered.

XXIX.—INLAND REVENUE ACT, 1880.

43 AND 44 VICT. CAP. 20.

PART III.—LICENCES FOR THE SALE OF LIQUORS BY RETAIL.

XL. *Meaning of terms.*—For the purposes of this part of this Act each of the following terms shall have the meaning assigned to it in this section :—

‘Cider’ includes perry :

‘Sweets’ includes made wines, mead, and metheglin :

‘Beer’ includes cider :

‘Wine’ includes sweets :

XLI. *Alteration of the duties on certain excise licences.*—On and after the first day of July One thousand eight hundred and eighty, in lieu of the duties of excise now payable on the licences mentioned in this section (except in the case of a licence to sell wine by retail to be taken out by a grocer in Scotland), there shall be charged and paid the duties following (that is to say),—

	Duty.
On a licence to be taken out by a person for the selling of cider by retail in England, .	£1 5 0
On a licence to be taken out by a retailer of sweets in the United Kingdom,	1 5 0
On a licence to be taken out by a person for the selling by retail in the United Kingdom of beer to be consumed on the premises,	3 10 0
On a licence to be taken out by a person for the selling by retail in England of beer not to be consumed on the premises,	1 5 0

	Duty.
On a licence (additional) to be taken out by a licensed dealer in beer in England or Ireland authorizing him to sell by retail beer not to be consumed on the premises,	£1 5 0
On a licence to be taken out to sell wine by retail to be consumed on the premises, .	3 10 0
On a licence to be taken out by any person in England or Ireland for the sale by retail in any shop of wine not to be consumed on the premises,	2 10 0

XLII. *Duties on licences for the retailing of beer and wine.*—

(1.) On and after the first day of July One thousand eight hundred and eighty, there shall be charged and paid upon licences for the sale by retail of beer and wine to be taken out by any persons in the United Kingdom who may be authorized to obtain the same, the duties of excise following (that is to say),—

	Duty.
On a licence for the sale by retail of beer and wine to be consumed on the premises,	£4 0 0
On a licence for the sale by retail of beer and wine not to be consumed on the premises,	3 0 0

(2.) Every such licence shall be in such form as the Commissioners shall direct, and shall expire in England or Ireland on the tenth day of October, and in Scotland on the fifteenth day of May, in each year.

XLIII. *Alteration of duties on licences to retailers of spirits.*—

(1.) On and after the first day of July One thousand eight hundred and eighty, in lieu of the duties of excise now payable on licences to be taken out by retailers of spirits in the United Kingdom, there shall be charged and paid the duties following (that is to say),—

				Duty.
If the annual value of the dwelling-house in which the retailer shall reside or retail spirits, together with the offices, courts, yards, and gardens therewith occupied, is				
under £10,				£4 10 0
Is £10 and under £15,				6 0 0
„ 15	„ 20,	. . . . .		8 0 0
„ 20	„ 25,	. . . . .		11 0 0
„ 25	„ 30,	. . . . .		14 0 0
„ 30	„ 40,	. . . . .		17 0 0
„ 40	„ 50,	. . . . .		20 0 0
„ 50	„ 100,	. . . . .		25 0 0
„ 100	„ 200,	. . . . .		30 0 0
„ 200	„ 300,	. . . . .		35 0 0
„ 300	„ 400,	. . . . .		40 0 0
„ 400	„ 500,	. . . . .		45 0 0
„ 500	„ 600,	. . . . .		50 0 0
„ 600	„ 700,	. . . . .		55 0 0
„ 700 or above,	. . . . .			60 0 0

(2.) The holder of a licence to retail spirits chargeable with duty under this Act shall not be required to take out any further or other excise licence to enable him to sell beer or wine by retail. The holder of such licence shall not be liable for any per-centage, discount, or other charge more than the amount stated in the Act.

(3.) Any person applying for a six days' and early closing licence for the sale of spirits as an auxiliary only to his business as a restaurateur or eating house keeper, and not keeping an open drinking bar, shall be entitled to his licence at a sum not exceeding thirty pounds, no such reduction to be made unless the licensing Justices shall have certified by indorsement on their certificate that the nature of the business carried on by the applicant justifies the reduced scale of charge.

(4.) Where in the case of premises of the value of fifty pounds or upwards it shall be proved to the satisfaction of the Commissioners that the premises are structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and are mainly so used, the amount of duty to be paid on a licence to retail spirits shall not exceed twenty pounds. Provided that the relief under this subsection shall not be given in case any portion of the premises is set apart and used as an ordinary public house for the sale and consumption therein of liquors, and the annual value of such portion, in the opinion of the Commissioners, exceeds twenty-five pounds.

(5.) The amount of duty to be paid for a licence to retail spirits in any theatre granted under the provisions contained in the seventh section of the Act of the fifth and sixth years of the reign of King William the Fourth, chapter thirty-nine, shall not exceed twenty pounds.

(6.) The expression 'retailers of spirits,' as used in this section, does not include a spirit grocer in Ireland, as defined by section eighty-one of the Licensing Act, 1872, or a dealer in spirits selling spirits in bottle under an additional licence authorizing him in that behalf, or a grocer in Scotland as defined by section two of the Public Houses (Scotland) Act, 1853.

(7.) In the case of premises in Ireland, the annual value, upon which the duty on the licence in respect of the premises is to be charged, shall not exceed the amount of the value assigned thereto in the valuation in force under the Act of the fifteenth and sixteenth years of Her Majesty's reign, chapter sixty-three, with the addition of twenty per centum of such amount; and the licensed person may appeal against the amount of annual value upon which the duty has been charged and paid to the chairman of the sessions of the peace for the county, or the recorder of the city or burgh,

in which the premises are situate, and such chairman or recorder shall have full power to hear and determine such appeal, and his determination shall be final. If, in accordance with such determination, there shall have been any overpayment of duty, the amount shall be repaid.

XLIV. Extension of six-day and early closing licences to the United Kingdom.—The provisions regarding six-day licences and early closing licences contained in section forty-nine of the Licensing Act, 1872, and sections seven and eight of the Licensing Act, 1874, shall be deemed to apply throughout the United Kingdom.

XLV. Duties on licences for the sale of liquors and tobacco in boats.—(1.) The duty now charged upon a licence to supply, retail, and sell foreign wine, strong beer, cider, perry, spirituous liquors, and tobacco to passengers on board any packet-boat or other vessel employed for the carriage and conveyance of passengers, to be consumed in or on board such boat or vessel, shall cease to be payable, and there shall be granted and paid the following duties of excise (that is to say),—

Upon a licence to be taken out for the sale of spirits, wine, beer, and tobacco to be consumed on board a boat or vessel of any description employed for the carriage and conveyance of persons going as passengers from any place in the United Kingdom to any other place in the United Kingdom, or going from and returning to the same place on the same day,—

Duty.

If the licence is to be in force from the day of the date thereof until the thirty-first day of March next ensuing, . . . £5 0 0

If the licence is to be in force for one day only, 1 0 0

(2.) Such licences shall be granted under and be subject to the enactments contained in the Act of the ninth year of the

reign of King George the Fourth, chapter forty-seven, as amended by section ten of the Act of the fourth and fifth years of the reign of King William the Fourth, chapter seventy-five, so far as such enactments are consistent with this Act and the terms of the licences respectively.

XXX.—THE LICENSING ACT, 1872.

35 AND 36 VICT. CAP. 94.

XLIX. *Provisions as to six-day licences.*—Where on the occasion of an application for a new licence or transfer or renewal of a licence which authorizes the sale of any intoxicating liquor for consumption on the premises, the applicant, at the time of his application, applies to the licensing Justices to insert in his licence a condition that he shall keep the premises in respect of which such licence is or is to be granted closed during the whole of Sunday, the Justices shall insert the said condition in such licence.

The holder of a licence in which such condition is inserted (in this Act referred to as a six-day licence) shall keep his premises closed during the whole of Sunday, and the provisions of this Act with respect to the closing of licensed premises during certain hours on Sunday shall apply to the premises in respect of which a six-day licence is granted as if the whole of Sunday were mentioned in those provisions instead of certain hours only. The holder of a six-day licence may obtain from the Commissioners of Inland Revenue any licence granted by such Commissioners, which he is entitled to obtain in pursuance of such six-day licence, upon payment of six-seventh parts of the duty which would otherwise be

payable by him for a similar licence not limited to six days ; and if he sell any intoxicating liquor on Sunday, he shall be deemed to be selling intoxicating liquor without a licence.

The notice which a licensed person is required to keep painted or fixed on his premises shall, in the case of a licence under this section, contain words indicating that such licence is for six days only. In calculating the amount to be paid for a six-day licence any fraction of a penny shall be disregarded.

Note.—This section is extended to Scotland by section 44 of the Act 43 and 44 Vict. cap. 20 (Inland Revenue Act, 1880).

XXXI.—THE LICENSING ACT, 1874.

37 AND 38 VICT. CAP. 49.

VII. *Early closing licences.*—Where on the occasion of any application for a new licence, or the removal or renewal of a licence which authorizes the sale of any intoxicating liquor for consumption on the premises, the applicant applies to the licensing Justices to insert in his licence a condition that he shall close the premises in respect of which such licence is or is to be granted one hour earlier at night than that at which such premises would otherwise have to be closed, the Justices shall insert the said condition in such licence.

The holder of a licence in which such condition is inserted (in this Act referred to as an early closing licence) shall close his premises at night one hour earlier than the ordinary hour at which such premises would be closed under the provisions of this Act, and the provisions of this Act and the principal

Act shall apply to the premises as if such earlier hour were the hour at which the premises are required to be closed.

The holder of an early closing licence may obtain from the Commissioners of Inland Revenue any licence granted by such Commissioners which he is entitled to obtain in pursuance of such early closing licence, upon payment of a sum representing six-sevenths of the duty which would otherwise be payable by him for a similar licence not limited to such early closing as aforesaid. In calculating, the six-sevenths fractions of a penny shall be disregarded.

The notice which a licensed person is required by section eleven of the principal Act to keep painted or fixed on his premises shall, in the case of an early closing licence, contain such words as the licensing Justices may order for giving notice to the public that an early closing licence has been granted in respect of such premises.

VIII. *Remission of duty in the case of six-day and early closing licence.*—A person who takes out a licence containing conditions rendering such licence a six-day licence as well as an early closing licence, shall be entitled to a remission of two-sevenths of the duty.

Note.—These sections which are extended to Scotland by section 44 of the Act 43 and 44 Vict. cap. 20 (Inland Revenue Act, 1880) are on account of the provisions of the Act 16 and 17 Vict. cap. 67 ('The Forbes Mackenzie Act,' 1853), rendered practically useless in Scotland.

XXXII.—INLAND REVENUE ACT, 1863.

26 AND 27 VICT. CAP. 33.

XX. *Alteration of the law relating to occasional licences.*—Whereas it is expedient to alter and amend the conditions and restrictions upon and under which occasional licences to sell beer, spirits, or wine may be granted and used as provided by the thirteenth section of the Act passed in the twenty-fifth and twenty-sixth years of Her Majesty's reign, chapter twenty-two : be it enacted as follows :—

1. That the consent of one Justice of the Peace, as in the said section mentioned, only shall be necessary.
2. That the hours during which such occasional licence shall authorize the sale of any beer, spirits, or wine shall extend from sunrise to one hour after sunset.
3. That upon the occasion of any public dinner or ball it shall be lawful for the person who shall have obtained an occasional licence under the provisions of the said Act, to sell the said liquors during such hours before or after sunrise or sunset as shall be allowed and specified in that behalf in the consent to be given by the Justice of the Peace for the granting of such occasional licence.

XXXIII.—EXCISE DUTIES ACT, 1825.

6 GEO. IV. CAP. 81.

II. *Instead of the duties repealed, the following shall be levied.*—And be it further enacted, that from and after the said fifth

day of July One thousand eight hundred and twenty-five, in lieu and instead of the duties by this Act repealed, there shall be raised, levied, collected, and paid unto His Majesty, his heirs and successors, in and throughout the United Kingdom of Great Britain and Ireland, the several duties of excise or rates and sums of money hereinafter following (that is to say),—

For and upon every excise licence to be taken out by any maker, manufacturer, trader, dealer, retailer, or person hereinafter mentioned, within Great Britain and Ireland, to be paid by such maker, manufacturer, trader, dealer, retailer, and person respectively, the respective annual sum or duty of excise in British currency hereinafter mentioned (that is to say),—

Beer—

Every person, not being a brewer of beer, who shall sell strong beer only in casks, containing not less than $4\frac{1}{2}$ gallons imperial standard gallon measure, or in not less than two dozen reputed quart bottles at one time, to be drank or consumed elsewhere than on his, her, or their premises,

£3 3 0

Every person who shall be duly authorized by Justices of the Peace to keep a common inn, alehouse, or victualling house, and who shall sell beer, cider, or perry, by retail, to be drank or consumed in his, her, or their house or premises, if the dwelling house in which such person shall reside or retail beer, cider, or perry, as aforesaid, at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens therewith

occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of £20 per annum or upwards, or shall not be rented or valued at such rent or annual value or upwards,	£1	1	0
And if rated, rented, or valued as aforesaid at £20 per annum or upwards,	3	3	0
.			
.			

Spirits—

Every dealer in spirits not being a retailer thereof,	10	0	0
.			

Every retailer of spirits (except retailers of spirits in Ireland after mentioned) if the dwelling house in which such retailer shall reside or retail such spirits at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of £10 per annum or upwards, or shall not be rented or valued at such rent or annual value or upwards,	2	2	0
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If the same shall be rated, rented, or valued as aforesaid at £10 per annum or upwards and under £20,	4	4	0
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If at £20 and under £25,	6	6	0
„ 25 „ 30,	7	7	0
„ 30 „ 40,	8	8	0
„ 40 „ 50,	9	9	0

If at £50 per annum or upwards, . . .	£10	10	0
.
.

Wine—

Every dealer in Foreign wine, who shall not have an excise licence for retailing spirits, and a licence for retailing beer, .	10	0	0
Every retailer of Foreign wine who shall have taken out a licence for retailing beer to be drank or consumed on his, her, or their premises, but shall not have taken out an excise licence for retailing spirits to be so drank or consumed, . . .	4	4	0
Every retailer of Foreign wine who shall have taken out excise licences for retailing beer and spirits respectively to be so drank or consumed, . . .	2	2	0
.
.

Note.—This section is by the Inland Revenue Act, 1880, repealed so far as it relates to brewers and maltsters or makers of malt.

XXXIV.—EXCISE ACT, 1840.

3 AND 4 VICT. CAP. 17.

I. *An additional duty of £5 per cent. on the amount of all customs and excise duties.*—

That from and after the fifteenth day of May One thousand

eight hundred and forty, there shall be charged, raised, levied, collected, and paid an additional duty or charge of five pounds per centum upon the produce and amount of all the several duties and revenues of customs and excise charged and collected under the management of the Commissioners of Customs and Excise respectively throughout the United Kingdom ;

XXXV.—EXCISE DUTIES ACT, 1873.

36 VICT. CAP. 18.

IV. *Exemption of hotel keepers, etc., from duty on servants under 32 and 33 Vict. cap. 14.*—On and after the first day of January One thousand eight hundred and seventy-four, it shall not be necessary for a licence to be taken out under the Act of the thirty-second and thirty-third years of Her Majesty's reign, chapter fourteen, by any hotel keeper, retailer of intoxicating liquor, or refreshment-house keeper, for any servant wholly employed by him for the purposes of his business.

XXXVI.—ADULTERATION OF BEER ACT, 1816.

56 GEO. III. CAP. 58.

II. *No brewer or dealer in beer to have in his possession or use any material for colouring beer, other than brown malt, nor any article as a substitute for malt, under pain of forfeiture*

thereof, etc., and penalty of £200.—And be it further enacted, that from and after the said fifth day of July One thousand eight hundred and seventeen, no brewer or brewers of, or dealer or dealers in, or retailer or retailers of beer shall receive or take into or have in his, her, or their custody or possession, or make, or use, or mix with or put into any worts or beer any liquor, extract, calx, or other material or preparation, for the purpose of darkening the colour of worts or beer, or any liquor, extract, calx, or other material or preparation, such as has been heretofore or as shall hereafter be made use of for or in the darkening of the colour of worts or beer, other than brown malt, ground or unground as commonly used in brewing, or shall receive or take into or have in his, her, or their custody or possession, or use or mix with or put into any worts or beer, any melasses, honey, liquorice, vitriol, quassia, coculus indiæ, grains of paradise, guinea pepper, or opium, or any extract or preparation of melasses, honey, liquorice, vitriol, quassia, coculus indiæ, grains of paradise, guinea pepper, or opium, or any article or preparation whatsoever, for or as a substitute for malt or hops ; and if any such brewer or brewers of, or dealer or dealers in, or retailer or retailers of beer shall receive or take into or have in his, her, or their custody or possession, or make or use in brewing, or mix with or put into any worts or beer any liquor, extract, calx, or other material or preparation, for the purpose of darkening the colour of worts or beer, or any liquor, extract, calx, or other material or preparation, such as has been heretofore or as shall hereafter be made use of for or in the darkening of the colour of worts or beer, other than brown malt, ground or unground as commonly used in brewing, or shall receive or take into or have in his, her, or their custody or possession, or shall use or mix with or put into any worts or beer any melasses, honey, liquorice, vitriol, quassia, coculus indiæ, grains of paradise, guinea pepper, or any extract or preparation of melasses, honey, liquorice, vitriol, quassia,

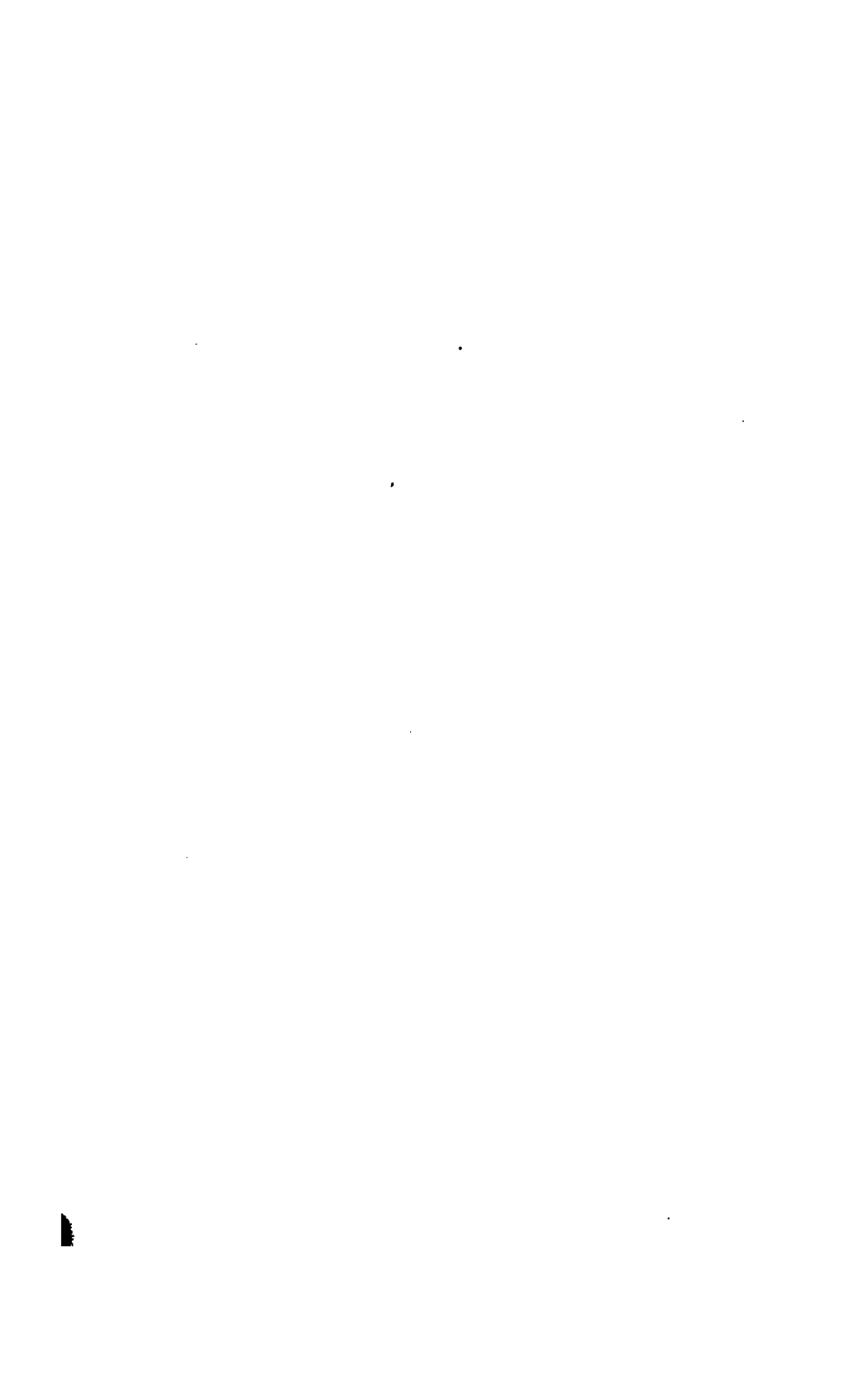
coccus indiciæ, grains of paradise, guinea pepper, or opium respectively or any article or preparation whatsoever, for or as a substitute for malt or hops, all such liquor, extract, calx, melasses, honey, vitriol, quassia, coccus indiciæ, grains of paradise, guinea pepper, opium, extract, article and preparation as aforesaid, and also the said worts and beer respectively, shall be forfeited, together with the casks, vessels, or other packages containing the same, and shall and may be seized by any officer or officers of excise ; and such brewer or brewers of, dealer or dealers in, or retailer or retailers of beer so offending as aforesaid, shall for each and every such offence forfeit and lose the sum of two hundred pounds.

III. *No druggist to sell colouring or any substitute for malt to any brewer or dealer, under pain of forfeiture thereof, and penalty of £500.*—And be it further enacted, that from and after the said fifth day of July One thousand eight hundred and seventeen, no druggist or druggists, or vender or venders of, or dealer or dealers in drugs, or chymist or chymists, or other person or persons whatever, shall sell, send, or deliver, or cause, procure, permit, or suffer to be sold, sent, or delivered, to any licensed brewer or brewers of, or dealer or dealers in, or retailer or retailers of beer, knowing him, her, or them to be so licensed, or to be reputed to be so licensed, or shall sell, send, or deliver, or cause or procure to be sold, sent, or delivered, to any other person or persons for, or on account of, or in trust for, or for the use of any such brewer or brewers, dealer or dealers, or retailer or retailers, any liquor called or known by the name or description of or sold as colouring, from whatever materials the same may have been made, or any other material or preparation, other than unground brown malt, for the purpose of darkening the colour of worts or beer, or any liquor or preparation such as has been heretofore or shall hereafter be made use of for or in the darkening of the colour of worts or beer, or any melasses, honey, liquorice, vitriol, quassia, coccus

indiaë, grains of paradise, guinea pepper, or opium, or any extract or preparation of melasses, honey, liquorice, vitriol, quassia, coculus indiaë, grains of paradise, guinea pepper, or opium, or any article or preparation to be used in worts or beer, for or as a substitute for malt or hops respectively ; and if any druggist or druggists, or vender or venders of, or dealer or dealers in drugs, or any chymist or chymists, or any other person or persons whatever, shall sell, send, or deliver, or cause or procure, permit, or suffer to be sold, sent, or delivered, to any licensed brewer or brewers of, or dealer or dealers in, or retailer or retailers of beer, knowing him, her, or them to be so licensed, or to be reputed to be so licensed, or shall sell, send, or deliver, or cause or procure to be sold, sent, or delivered to any other person or persons for or on account of, or in trust for, or for the use of any such brewer or brewers, or dealer or dealers, or retailer or retailers of beer, any liquor called or known by the name or description of or sold as colouring, from whatever materials the same may have been made, or any other material or preparation other than unground brown malt, for the purpose of darkening the colour of worts or beer, or any liquor or preparation such as has been heretofore used, or as shall hereafter be made use of for or in the darkening the colour of worts or beer, except as aforesaid, or any melasses, honey, liquorice, vitriol, quassia, coculus indiaë, grains of paradise, guinea pepper, or any extract or preparation of melasses, honey, liquorice, vitriol, quassia, coculus indiaë, grains of paradise, guinea pepper, opium, or any article or preparation to be used in worts or beer, for or as a substitute for malt or hops respectively, all such liquor called or known by the name or description of or sold as colouring, and material or preparation for the purpose aforesaid, and liquor and preparation used, or which shall hereafter be used, for or in the darkening the colour of worts or beer, melasses, honey, liquorice, vitriol, quassia, coculus indiaë, grains of paradise,

guinea pepper, extract or preparation of melasses, honey, liquorice, vitriol, quassia, coculus indiæ, grains of paradise, guinea pepper, opium, and article or preparation to be used for or as a substitute for malt or hops respectively, shall be forfeited, and the same respectively shall and may be seized by any officer or officers of excise ; and the druggist or druggists, vender or venders of, or dealer or dealers in drugs, or chymist or chymists, or other person or persons whatever so offending, shall for each and every such offence forfeit and lose the sum of five hundred pounds.

Note.—These sections have, so far as they relate to brewers, been repealed by the Inland Revenue Act, 1880.



APPENDIX.



REPORT BY ROYAL COMMISSION ON GROCCERS' LICENCES, 1878.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please your Majesty.—We, the Commissioners appointed by your Majesty to inquire into the laws regulating the sale and consumption of excisable liquors sold not for consumption on the premises in Scotland, humbly submit to your Majesty this our report.

PROCEEDINGS OF THE COMMISSION.

1. *Course of proceeding adopted*.—We began our proceedings in execution of your Majesty's commission by issuing to the chief Magistrates of the cities and burghs of Scotland, to the clerks of the peace of counties, to the chief constables of counties, and to the superintendents of police in cities and burghs, certain questions in order to obtain from them information with reference to the subject of our inquiry, and their opinions thereon. These questions and the substance of the replies given to them will be found in Appendix A. to our report. We subsequently issued to all the chief officers of police above mentioned tabular forms to be filled up by them, wherein are shown, so far as they can be obtained, the numbers each year since the year 1854, of (1) licensed grocers; (2) unlicensed grocers; (3) persons licensed to sell beer and porter only; (4) hotels

and public houses ; (5) grocers convicted of breach of certificate ; (6) persons found drunk and incapable ; (7) persons apprehended for crimes, and of those how many were drunk when apprehended ; and also the rental of premises occupied by licensed grocers in each district. These returns will be found in Appendix B. to this report. We received in Edinburgh the evidence of a variety of witnesses, including the official persons belonging to the city and to the neighbouring counties, representatives of the licensed and unlicensed grocers, and a great number of persons who were interested in the subject, or were suggested as witnesses, either by the advocates of changes in the law, or by the agents of the trade concerned. Meanwhile, circulars stating the object and scope of the Commission were sent to all parts of the country, and notices inserted in the local newspapers, in order that all persons desiring to offer evidence might communicate with us, and be prepared to be examined if required. We then proceeded to take evidence in Glasgow, and subsequently in Dundee, Aberdeen, and Inverness, as convenient centres for large districts. We have held in all nineteen sittings for the purpose of receiving evidence, and examined 335 witnesses. We have besides received letters from many persons who were unable or unwilling to appear personally before us. Some of these are printed in Appendix D.

2. *Classification of witnesses.*—The witnesses for the most part are distinctly divided into classes : (1) those who allege that the combination of the trade of grocers and vendors of other commodities with the trade of vendors of spirits is objectionable, and injurious in its effects ; (2) those who regard this combination as natural and convenient, but allege that the law which regulates the combined trade is frequently broken, and that with impunity ; (3) the representatives of the licensed grocers, and those suggested as witnesses by them, who either deny the alleged offences, or insist that they are of rare occurrence ; and (4) the representatives of the unlicensed grocers, who complain that it is unjust to grant licences to some grocers and refuse them to others.

3. We feel bound to testify to the personal trouble which some of the witnesses have expended in order to inform themselves and us, manifesting an earnest desire to establish by

proof the views which in the public interest they advocate. Especially we would mention Sir Robert Anstruther, Baronet, M.P., who before we commenced our inquiry had obtained from all parts of Scotland replies to queries addressed by him to public and responsible persons. The documents containing these replies he placed in our hands *in extenso*. Some selected and specimen papers referred to in his evidence will be found in Appendix C. We have also to express our thanks for the full and careful answers to our questions, and for the returns furnished by most of the official persons to whom we were obliged to apply for the facts necessary to our inquiry.

4. We have endeavoured to limit our inquiry and to confine the evidence to matters relating to the branch of the licensed trade to which our commission referred; but we found it impossible to exclude entirely evidence respecting the extent of habits of intemperance in the community, and in particular classes thereof; of the manner in which the licensing and magisterial authority is exercised; of the purity or otherwise of the liquors sold; and even, incidentally and comparatively, of matters connected with the other branches of the trade in excisable liquors.

5. *Sufficiency of the evidence.*—We believe that the evidence which we have obtained from the several classes of witnesses above mentioned has been sufficiently exhaustive of the facts of the case; but we are obliged to point out the almost entire absence of evidence from the smaller licensed dealers. In several cases where witnesses presented memorials or gave evidence professing to embody the testimony of all the members of their trade in a particular district, it appeared that a considerable minority had not appended their names, and that this minority were of the class above mentioned. One memorial which professed to disclaim energetically, on the part of the grocers of a particular town and neighbourhood, the malpractices which had been alleged to be prevalent, contained no mention of that one which had been most frequently particularized, viz. the practice of allowing liquor to be consumed on the premises.

6. *Uniformity of the evidence of the police.*—We are impressed by the striking uniformity in the evidence of the constabulary, with very few exceptions, upon the principal points involved.

This evidence shows that the law is frequently evaded, and that the evasions are extremely difficult to detect. But many of the other witnesses who accused the licensed grocers of promoting intemperance, or at least of fostering habits of drinking, frankly admitted that their objections were equally strong against every form of the 'liquor traffic,' and that they attacked, in the present instance, the particular form which was under consideration.

7. *Appendices.*—There will be found in our appendices the two sets of answers above referred to, of the chief Magistrates of cities and burghs, of clerks of peace and chief officers of constabulary; a selection of communications received by the Commission; extracts from the Acts of Parliament regulating the sale of excisable liquors not to be consumed on the premises, in Scotland, England, and Ireland. There is also an analysis of the evidence, and a general index.

HISTORY AND STATE OF THE LAW.

8. *State of matters prior to 1853.*—Prior to 1853, licences in Scotland were regulated by the Act of 1828. Under this Act there was only one form of certificate authorizing persons to keep 'common inns, alehouses, and victualling houses.' Certificates under this Act were granted to grocers, and the licence they obtained enabled them to sell liquors to be consumed on the premises.

9. *Report of Select Committee in 1846 referred to.*—In 1846 a Select Committee of the House of Commons, appointed to consider the system of granting certificates for public houses in Scotland, reported, 'That the combination of the trade of grocers and vendors of other commodities with the trade of vendors of spirits, to be consumed on the premises, is, especially in towns, productive of evil consequences to the working classes.'

10. *Provisions of Act of 1853, 16 and 17 Vict. cap. 67.*—Following on that report the Act of 1853, commonly known as the Forbes Mackenzie Act, introduced the system of granting certificates for licences to sell liquors 'not to be consumed on the premises,' and licensed houses were classified into (1) inns and hotels; (2) public houses; and (3) dealers in

excisable liquors, and grocers and provision dealers trading in excisable liquors. It was made illegal to grant any certificate for spirits, wine, and excisable liquors to be drunk or consumed on the premises, 'unless on the express condition that no groceries or other provisions to be consumed elsewhere, shall be sold in the houses or premises with respect to which such certificate is granted. Provided always, that nothing herein contained shall prevent any person or persons obtaining a certificate as a grocer,' for the sale of porter, ale, spirits, and other excisable liquors 'by retail, but not to be consumed on the premises, at the same rate as is exigible for a certificate for a public house.' Penalties were imposed on grocers who infringed the law by permitting consumption on the premises, and three convictions rendered the person convicted incapable of holding a licence in all time coming. The certificate under which grocers were licensed prohibited the sale of excisable liquors before six in the morning or after eleven at night, and on Sundays.

11. *Provisions of Act of 1862, 25 and 26 Vict. cap. 35.*—By the Act of 1862 new forms of certificate were introduced, and additional restrictions were imposed upon grocers. They were prohibited (1) from selling liquor to girls or boys under fourteen years of age; (2) from receiving or taking in, as the price of excisable liquors, any wearing apparel, goods, or chattels; and (3) from selling liquor before eight in the morning or after eleven at night. The certificate under the Act of 1853 was granted on the condition that the person in whose favour it was issued 'do not *sell* any spirits to be drunk or consumed on the premises.' In the form of certificate annexed to the Act of 1862, these words are altered to 'do not *traffic* in or *give* any spirits,' etc. A certificate to sell spirits was to be sufficient to authorize the issue of a licence to sell porter, ale, etc. Persons holding licences under the Excise Act of 1861 for the sale of table beer not to be consumed on the premises (which licences were issued without the applicant having obtained a certificate from the Magistrates or Justices of the Peace), were subjected to the same conditions as persons holding certificates.

12. The Act of 1862 further provided, that where a person is desirous of keeping an inn, public house, or shop for the sale

of spirits or other excisable liquors, he shall fill up a statutory form of application, which shall not be entertained until a report as to the suitability of the premises shall have been made and subscribed by a Justice of Peace or Magistrate entitled to grant a certificate. The report must be accompanied by a certificate of the applicant's character, also signed by a Justice of Peace of the county or Magistrate of the burgh in which the premises are situated. It is not, however, necessary to produce a certificate of character in applications for renewal. Power is given to the police, for the first time, to enter the premises of any grocer holding a licence, but only where they shall have reason to believe that a breach of certificate is being committed. Penalties are imposed for obstructing the admission of the police. An explanation is given of what shall be deemed drinking on the premises; a penalty is imposed on persons found drunk and incapable; and on licensed persons who harbour constables when on duty.

13. *Provisions of Act of 1876, 39 and 40 Vict. cap. 26.*—The most recent Act relative to the liquor traffic in Scotland was passed in 1876. It declares the refusal by the Magistrates to grant a new certificate to be final, and abolishes appeals to Quarter Sessions in that matter. Grants of new certificates in counties must be confirmed by a standing committee of the Justices of Peace of the county (to be called the County Licensing Committee), and in burghs by a joint committee of the Magistrates of the burgh and Justices of Peace of the county. Provisions are made for the appointment and procedure of such committees; persons opposing an application before the Justices or Magistrates may also do so before the confirming authority; applicants for renewal are not obliged to appear personally, unless required to do so; and persons licensed to sell table beer under section 3 of the Excise Act of 1861 must obtain certificates in terms of the Act of 1862.

14. *Law in Scotland compared with that in England and Ireland.*—The law regulating the sale of liquors in grocers' shops is much more indulgent in Scotland than in England or Ireland, for, whereas in the two latter countries no spirits can be sold by a 'spirit grocer' in a less quantity than a reputed quart, in Scotland there is no restriction upon the quantity or manner of sale; so that spirits may be sold by a grocer in the

smallest measures, and even in an open vessel ; in fact, enormous quantities are constantly sold in very small measures, a frequent habit in shops resorted to by the working classes being for the customer to bring a bottle to contain the quantity required, which may be more or less securely corked by the salesman on delivery.

15. Moreover, the seller in England and in Ireland is liable to a heavy penalty if, with his privity, the purchaser drinks such liquor on the premises, or near the premises ; proof of the actual sale or consumption of liquor is not required if the Court hearing a case of alleged offence be satisfied that a transaction of the nature of a sale had or was about to take place ; no spirit grocer can have his premises open at any other times than those limited for the sale of liquors ; a constable may at all times enter any licensed premises, and Justices of the Peace and constables may enter the premises of the spirit grocer during prohibited hours and remove any person who shall appear to have been recently drinking therein. The absence of such provisions in the Scotch Acts was brought to our notice in the course of our inquiry.

16. *Grocery trade restricted in 1853.*—In Scotland it would appear that, up to 1853, licensed grocers carried on a trade in no respect differing from that of publicans. We have reason to believe that from a remote period it was the custom to obtain in grocery and provision shops refreshments of a simple kind, of food as well as of drink ; but the more precise distinction of trades, which modern habits had produced, caused the gradual transfer of casual entertainment from such shops to hostelrys proper, and we were told that the grocers, at least in Edinburgh and Glasgow, willingly acquiesced in the restriction of their business by the Act of 1853 to the sale of liquors not to be consumed on the premises.

17. *Procedure of licensing authority since 1853.*—It would appear that after that period the licensing authorities, while very generally endeavouring to restrict the number of licensed houses, regarded the multiplication of grocers' licences as less objectionable than that of public houses ; and while granting licences with increased reluctance to the latter, were less careful to limit the numbers of the former, so

that in some towns nearly every grocer in a considerable way of business is possessed of a licence. In some districts also persons applying for public house licences were granted grocers' licences instead, thereby increasing the competition both in the grocery and liquor trade, and in consequence the facilities to the public of purchasing intoxicating drinks. We find, however, that in many districts the Magistrates have altered their opinion as to the comparative advantages and disadvantages of the two kinds of licence, and now consider it necessary to exercise equal caution with regard to both.

18. *Report of 1859 Commission referred to.*—Before entering upon the examination of the subject which has been referred to us, we think it right to call attention to the general results of legislation regulating the sale of liquors in Scotland, disclosed in the course of our inquiry. The Royal Commission appointed in 1859 to inquire into the operation of the Act of 1853, which had placed unprecedented restrictions upon the sale of excisable liquors, reported that great improvement had been accomplished by that Act, and that the public generally had acquiesced in its stringent provisions. One result of the report of that Commission was that the Legislature imposed further restrictions upon the sale of liquors not to be consumed on the premises, limiting the hours during which sales could be made to the same as those authorized for public houses. All the witnesses examined by us approve of the trade in intoxicating liquors being under strict regulation, and there is an almost unanimous concurrence of opinion that the restrictive legislation which has hitherto been adopted has been productive of marked benefit to public order and morality. This legislation, we are glad to observe, has not caused any loss to the traders thereby affected, nor do they generally complain of the restrictions imposed upon them. On the contrary, nearly all the representatives of the branch of the trade forming the subject of our inquiry expressed their desire for a further limitation of their hours of sale in their own interest, and many of the official and independent witnesses volunteered statements to the effect that a still earlier hour of closing all licensed premises would be greatly conducive to good order. Moreover, although the habits of a portion of the community leave much to be desired in the direction of self-denial and modera-

tion, we have reason to think that there is no retrogression, but rather an advance in public opinion with regard to the advantage of legislation in the repression of excess, and to the disgrace which attaches to insobriety.

19. *Satisfactory effects of 1853 Act.*—The legislative restrictions upon the sale of liquors in Scotland are so exceptional that it is proper to notice the effect which has followed these restrictions during the period of sixteen years since the Royal Commission of 1859. That Commission reported that the closing of all licensed houses during the whole of Sunday by the Act of 1853 was no new law, but only the restoration of a prohibition imposed by the common law of Scotland, which was rendered inoperative by judicial interpretation of the Act of 1828 ; and that evidence had been ‘adduced from all classes of persons of the benefits which had arisen from a return to the former practice’ under the Act of 1853. ‘The improvement in large towns,’ it is added, ‘has been most remarkable. Whereas formerly on Sunday mornings numbers of persons in every stage of intoxication were seen issuing from the public houses, the streets are now quiet and orderly, and few cases of drunkenness are seen. The evidence of the police authorities proved that, while there has been a considerable diminution in the number of cases of drunkenness and disorder since the passing of the Act 16 and 17 Vict. cap. 67, the change has been more marked on Sunday than on any other day in the week. We are not disposed to recommend any alteration in regard to it.’

20. The foregoing statements are confirmed by the evidence laid before us ; and although when it referred to public houses it was given incidentally, and was stopped by us when passing beyond its application to the subject of our inquiry, it is sufficient to warrant us in stating that the law which restricts the sale of excisable liquors in Scotland to the hours between 8 A.M. and 11 P.M., and prohibits it on Sundays altogether, except in inns and hotels to residents and travellers, has continued to be satisfactory in its results, and is generally accepted and acquiesced in. The illicit sale in unlicensed houses has been greatly checked by the amending Act of 1862, and convictions in respect of that class of offences are now comparatively rare.

21. It is sometimes said that if a man who desires to continue his self-indulgence is prevented from purchasing spirits upon Sunday, he will provide himself upon Saturday with the supply which will enable him to do so. Experience, however, shows that this is only true to a limited extent, and that hard drinkers are seldom so provident. They will turn into the house that lies in their way, and will even purchase a supply at the hour of closing, but the quantity so procured is soon consumed, and the removal of facilities for obtaining a fresh supply checks the persistence in the vicious indulgence.

22. *Shebeening*.—On the other hand, it appears that the refusal of all legitimate opportunities for obtaining a commodity which is in general demand leads often to a supply being furnished at all hazards, and the well-intended suppression of licensed houses over a large extent of country induces persons to risk the heavy penalties of the law in order to earn the large profits accruing from the sale of spirits in such circumstances. The inevitable deduction from the facts brought to our knowledge is, that within certain limits legal restraints are effectual in reducing drunkenness and its consequences to the public peace, that the present restraints in force generally in Scotland have not passed those limits, but that where they have been somewhat strained by the local authority,—and this has only come to our notice in some remote country districts,—the effect has been rather to increase breaches of the law. The chief constable of Inverness-shire says: ‘I know that districts where the authorities have set their faces against having more licensed houses than a hotel, have become hotbeds of shebeening.’

IMPERFECTIONS OF THE LAW.

23. We are now led to refer more particularly to the complaints and allegations which have been made to us as to the imperfections of the law regulating what for convenience we may call the trade of the licensed grocer, and as to the evasions and breaches of the law which are said to be prevalent.

24. *Grocer may at present keep open at any hour.*—The licensed grocer, though prohibited by the Act of 1862 from selling liquors on Sundays, or except between 8 A.M. and 11 P.M. on other days, may keep his shop open at any hour, and it is alleged that liquors in consequence are sold, and that sometimes they are consumed, on or near to the premises before and after the legal hours.

25. *There should be minimum rent and size fixed.*—There is no statutory provision fixing the value or size of premises in which the trade in excisable liquor may be carried on, and in practice many licences are granted in respect of shops of a very small rental, and consequently in the occupation of persons of a poor and needy class, who are specially exposed to the temptation of making money by illegal sales. It is urged that although the varying circumstances of different places preclude the fixing by the Legislature of a uniform standard, the licensing authority should be required to fix for the area within its own jurisdiction, or the several districts thereof, a *minimum* standard of rent or size for licensed premises.

26. *Credit more readily granted by grocers.*—The increase of drunkenness in towns is said to be simultaneous with the multiplication of licensed grocers, even although at the same period there has been a reduction in the number of public houses, whereas an opposite result has taken place when the number of both classes of licensed houses have been reduced. Moreover, the more ready credit granted by the grocer than by the publican is said to encourage the free use of spirits by a class who do not resort to the public house, but indulge themselves at home to a very injurious extent.

27. *Communication between house and shop renders evasion easy.*—Licences are frequently granted to premises having immediate communication with the dwelling-house or other premises not included in the licence. This renders it easy for the law to be evaded without the facility of detection. In many places the licensing authority does impose conditions in this respect, and in the city of Glasgow the Magistrates do not now grant a licence to any premises to which the dwelling of the occupier is attached.

28. *Obscuring of windows is common.*—Many witnesses, and

especially nearly all those from the police force, complain that the premises of the licensed grocers are so obscured from external observation, either by the arrangement of goods in the windows, or by the artificial blinding of the windows and doors, that it is impossible to perceive from the outside what is passing within; and also that in many shops there are screens, or goods so placed as to form screens, behind which drinking takes place without the possibility of its being observed. Some witnesses allege that as soon as a grocer obtains a licence, such artificial obstructions to view are usually put up.

29. *Difficulty of detection is great.*—Many witnesses, and again nearly all those belonging to the police, state that in many licensed grocers' shops drinking is very common and notorious, but that detection is extremely difficult from the precautions above mentioned, and also from the practice, where the law is thus being broken, of setting a watch to guard against the approach of a policeman or suspected person; while conviction is also difficult, because the Magistrates generally require the evidence of the policeman to be corroborated, and proof to be furnished that the liquor was actually seen to be consumed. Cases were related to us in which convictions were not obtained although the seller was seen to snatch away a glass from the hand of a person at the counter, and to throw liquor contained in it upon the floor, the ground of acquittal being that it was not proved that liquor had been actually consumed on the premises.

30. *Police have not sufficient power.*—A constable is only empowered to enter and inspect the premises of a licensed grocer where he has reason to believe that a breach of certificate is being committed, a condition which, for the foregoing reasons, he has great difficulty in satisfying. We were informed by many officers of police that, in numerous cases where they were certain that breaches were most common, the difficulties in the way of detection and conviction were so great that the law was practically inoperative.

31. *Drinking outside the shop often takes place.*—It has been brought to our notice that liquors are often consumed by the purchasers in the neighbourhood of, or even immediately outside the shop. In towns the grocer will sometimes lend

the measure in which the liquor is drawn, or a glass, from which it may be drunk in an adjoining passage or court; in the country, a bottle will be taken and its contents consumed behind a neighbouring fence. This involves no breach of the existing law, but it is manifestly an evasion of its intention, and the custom is complained of in some neighbourhoods as a nuisance.

32. *People go to grocers who would not go to public house.*—A complaint very commonly made by those who advocate the withdrawal of licences to sell liquors from dealers in provisions of every kind is, that the present system affords great encouragement to drinking habits to those who would not resort to a public house for a supply of liquor, because they think it disreputable to do so. It is said that many women especially have gradually 'taken to drink,' by beginning with occasional tippling at the grocer's, or with liquor procured there. It is also said, although no specific instances were stated to us, that servants on errands to licensed grocers are treated or tempted by presents of spirits, and that children begin to drink when employed to fetch spirits from shops otherwise than in perfectly secured bottles.

33. *Fictitious entries frequently made.*—It was alleged by many witnesses that, in order to evade the 'Tippling Act' or to conceal the transaction from heads of families, licensed grocers are in the habit of supplying liquor and entering it in accounts or pass-books under other designations. This was energetically denied by representatives of the trade. A number of accounts and pass-books, however, were exhibited to us in which such entries as soap and other common articles appeared with suspicious frequency, with reference to which entries we were informed that they had been disputed on the ground that they were in fact charges for liquors, and that payment of them had not been pressed by the creditor. Official witnesses stated that in the Small Debt Courts, when accounts were sued for in which entries for 'goods' occurred, the Magistrates generally found that it meant spirits, and one Sheriff of long standing stated that he invariably insisted that such entries were really not 'goods' but 'bads.' As a rule such fictitious entries were stated to be made by the lower class of dealer on behalf of the wives of working men, but one instance was given in

which a woman in superior circumstances had procured liquor for a long period from a grocer in the best part of Edinburgh by such covert practices.

34. *Practice of grocers' carts travelling in country districts.*—In several counties the practice has become common of grocers sending carts into the country to deliver both provisions and liquors to their customers. It is generally understood that this is done in pursuance of previous orders, but in some cases it has been proved that liquor has been sold on the spot without a previous order. It is complained that, by reason of such carts regularly travelling through the country districts, the limitation of licensed houses by the Magistrates is completely neutralized.

35. *Representations of the trade.*—The licensed grocers, as might be expected, after so much has been said in Parliament and in the newspapers against them, made strenuous efforts to represent their case effectively before us. We examined ninety-four witnesses connected with the trade, and received memorials numerously signed. These witnesses, and the signatories to the memorials, as we have before stated, energetically denied, for themselves and for their trade, the imputations cast upon them. They referred to the long continued existence of the privilege of dealing in liquors, urging especially the convenience to their customers of being enabled to purchase their supplies of liquors and provisions at the same shop, and the advantage to persons who do not like to go to public houses of being able to procure from the grocers the liquors which they require; and they claimed the credit of keeping liquors of a superior quality, and, in the case of spirits, of greater age, and, consequently, of greater wholesomeness, than those generally procurable at public houses. This evidence was corroborated by many witnesses, and no doubt could have been supported by many more; but it appeared to us useless to reproduce again and again statements which we had no reason to disbelieve. In fact, the very large trade carried on by many licensed grocers proves that their business meets the wants of a great part of the population. In such a trade there are, of course, many grades. In the cities, and in nearly all the towns, there are shops which supply families in the higher ranks, and probably no branch of business is more regularly and respectably con-

ducted. There are others, also of a perfectly respectable character, in which the business lies chiefly with the working classes, and in some of these sales take place to an extent which must be considered enormous, though, for the most part, in very small quantities, such as two gills, one gill, and even half a gill. Thus, Mr. Thomas Rae, of West Calder, whose business lies among a well-paid mining and artisan class, sells 1600 gallons yearly, about half of which is in such small quantities; Mr. Mungall, of West Calder, sells 120 gallons a month in small quantities; and we found that in many other establishments a business similar in extent and character was carried on. It was represented to us that, with the higher rate of wages generally earned now-a-days, habits of comparative luxury have become common among the working classes, so that many steady and well-doing men now make a practice, especially when the week's work is done, of purchasing small quantities of spirits, which are consumed at home with their families or friends. A witness pointed out that 'while we have not increased our drinking propensities, we have been living more generously.' You will observe that the enormous increase in the consumption of tea took place after the reduction of the duty to 6d. The following is the table:—

	1852.	Per Head. Pounds.	1875.	Per Head. Pounds.
Butter, per cwt. . . .	344,185	1·4	1,467,870	4·92
Cheese, „ „ „ . . .	336,160	1·36	1,542,821	5·46
Cocoa, per lb. . . .	3,024,338	0·1	9,957,610	0·30
Coffee, „ „ „ . . .	32,564,164	1·16	32,048,016	0·98
Currants and Raisins, p. cwt.	663,557	2·67	1,254,170	4·29
Rice, per cwt. . . .	399,170	1·6	3,389,286	11·68
Sugar, „ „ „ . . .	6,594,308	26·7	18,237,723	62·85
Tea, per lb. . . .	53,965,112	2·0	145,327,432	4·44

and in 1876 the consumption of tea was 185,536,371, or 5·6 pounds per head. Of late years no separate account has been taken by the Board of Trade of spices, but since the abolition

of the duty, the consumpt has in many cases trebled in quantity. The returns of the savings bank also show conclusively that the people, while spending more money on these articles within the last four years, have laid by immensely larger sums. In Glasgow last year a sum of £1,073,000 was paid into the savings bank. There has been also an immense increase in the Post Office Savings Bank, the sum last year being £8,982,350. There are likewise investment companies which are very numerous in Edinburgh, and building societies; and there are numerous other things which I could quote, showing that the working classes are immensely more frugal, or at least more careful than they used to be. They are living more generously, but I distinctly deny that drinking has increased. We also see plainly that they are eating more generously, which I think is a very good feature.'

36. *Evidence shows that the law is systematically broken.*—We are of opinion that, for the most part, those of the trade who are known as family grocers conduct their business in a regular and respectable manner, and are free from serious irregularities. No doubt, even among them there are occasional acts which, strictly speaking, involve a breach of the certificate, such as giving a glass of liquor to a customer; and we are constrained to believe that there are many licensed premises, both in town and country, where the law is systematically broken, and that the number of convictions obtained furnishes no test whatever of the number of offences committed. Thus—

In Dundee, where the Magistrates have for several years been exerting themselves, both to reduce the number of licensed houses and to enforce the law, so rigorously, indeed, as to forfeit licences in some cases after one conviction, both the present and the late superintendents of police state that they believe that the law is broken in at least one-third of the licensed grocers' shops.

In Ayrshire the officers of constabulary state that they believe that the law is broken by most of the licensed grocers in the populous places. 'It is remarkable,' says the chief constable, 'the number of grocers' shops in one part of the country that have an entrance to the premises of the grocer by a close, where numbers of the inhabitants have to pass up to their dwelling-houses; and there

is nothing to prevent the grocer from passing spirits through that entrance, that is, in the close from the shop which enters into the street.' 'I am quite sure that there is very extensive irregularity among the licensed grocers.'

The Superintendent of Police in Ayr being asked what proportion of the licensed grocers break the law, says—
'The proportion is comparatively the whole of them.'

The Provost of Kilmarnock says—'I think in the cheaper rented shops there is a large amount of illicit drinking.'

The Chief Constable of Lanarkshire—'There are a great number of grocers who are supposed by the police to break the law, but there is no evidence to that effect. In 1876 there were 16 cases against grocers reported, and in 10 of them convictions were obtained.'

The Chief Constable of Dumbartonshire—'The licensed grocers' houses have not been very well conducted in so far as consuming on the premises is concerned, but the Justices have acted very firmly in sweeping away the licence in cases where there was only one conviction.'

The Procurator-Fiscal of the City of Aberdeen—'Right or wrong, it is the impression here that the grocers' shops—as a rule, the smaller class—are as much public houses as they are grocers' shops.'

The Chief Constable of Aberdeenshire—'The evasion of the law is habitual, not only by admitting persons to consume drink in back shops and rooms, but by persons purchasing in shops, and stepping outside the door and drinking it. (Q.) Do you mean us to understand that there is habitual evasion of the law which the police have been unable to detect?—(A.) Yes.'

The Superintendent of Police, Peterhead—'Evasions are frequent in grocers' shops—in as many as the half of them,—chiefly in respect of drinking on the premises. I have great difficulty in detecting it. There are few but what do this less or more.' 'The grocers have generally a spy to give the alarm.'

The Provost of Dunfermline—'I believe there is a great deal of drinking in grocers' shops.'

The Chief Constable of Fife—‘I have not the least doubt that cases of evasion are numerous.’

37. *Grocers object to being confined to sale for consumption off premises when publicans may sell for consumption on or off.*—Such are a few instances taken at random of the opinions of men who are best qualified to form an opinion upon the facts of the case. The evil appears to be deep-seated, and it is our belief that many of the lower class of grocers do not hesitate to allow liquor to be consumed on their premises if they can do it with impunity. They appear not to have acquiesced in the change in the law which took place in 1853, rendering grocers and provision shops no longer places for the consumption of spirits, and to consider that it is unfair that the publican should be allowed to sell liquor to be consumed either on or off the premises, when the grocer is confined to the latter. In fact, several witnesses who were grocers represented that, as they are only allowed to sell liquor to be consumed off the premises, the publican ought to be confined to the sale of liquor to be consumed on his.

38. *Systematic evasion is demoralizing.*—It cannot be regarded as otherwise than demoralizing that a law which, in the opinion of Parliament, is calculated to promote the welfare of the community, should be systematically evaded, and that the authorities should be unable to enforce it.

SUGGESTED AMENDMENTS.

39. It will be seen from the evidence that a great number of suggestions have been made with the view to remedy the evils which at present exist. We only consider it necessary to direct attention to some of the most practical.

40. *Police should have more power of entry.*—Those who have represented both the occurrence of numerous offences and the present inefficacy of the means of prosecution or conviction, point out several respects in which it is essential that the powers of the police should be increased, and that the trade should be further regulated. They recommend primarily that the police should have the right of entrance at all times to all licensed premises. Many witnesses of high standing in the trade declared that they should have

no objection to the police possessing such powers, inasmuch as they had nothing to fear. We deem it essential for the prevention of drinking on the premises, that the police shall have the same right of entry at all times to the licensed grocers' shop as they have at present to the public house, and in England and Ireland to all licensed premises. It may be expected that the duties of inspection will be performed with discretion, and that respectable tradesmen will not be needlessly molested in the conduct of their business.

41. *There should be restrictions as to numbers and size of premises—Comparison between Edinburgh and Glasgow.*—Again, suggestions have been made in respect of both the numbers and the size of the premises licensed, with a view to further restriction. The action of the licensing authorities in reference to these matters is very unequal. In Glasgow the Magistrates have adopted a strict and firm system in both particulars. In 1876 there were 34 hotels, 1546 public houses, 268 grocers,—in all, 1848. The estimated population being 545,000, there was thus one licence for each 295 of the population, a hotel for each 16,029, a public house for each 352, and a licensed grocer for each 2033. In the year before the Act of 1853 came into operation there were 2053 licensed houses for a population of 360,000. Again, in 1858 the gross rental of the licensed places in Glasgow was £66,205, being on an average £40, 16s. ; in 1876 the gross rental was £159,047, 10s., being on an average £86. There are only three grocers and five publicans who live on the premises. The practice has been only to grant a grocers' licence to people who were dealing extensively in grocery goods. The Magistrates refuse licences if they think that more are not wanted in a particular locality, and there are manifold more grocers in Glasgow without a licence than with one, including some of the most extensive. In Edinburgh, on the other hand, there are, by the statement of the superintendent of police, '879 licensed houses, of which only 342 are public houses, and 480 grocers. Grocers' licences are sometimes given to men who have had no grocers' shop previously, and in some cases where a publican's licence has been applied for. There are many low-rented houses, about 170 whose annual rental is under £25, which is a very small rent for a shop in Edinburgh ; and there are about

20 under £15 of rental, which is a very low rent indeed. We have far too many low-rented houses certified.' 'I think too many grocers' licences have been granted of late years. I think it would be better to have fewer,—better for all concerned.' We find that, while in 1854, with a population (by the census of 1851) of 160,302, the number of public houses licensed was 511, and of grocers 326; in 1876, with a population (at the census of 1871) of 196,979, there were only 347 public houses, while there were 485 licensed grocers. It appears, moreover, that, as a rule, nearly every grocer in a considerable way of business at the West End of Edinburgh holds a licence.

42. *Practice of licensing authority differs.*—In other towns there is a similar difference of practice, as will be seen by the tables appended to our report. In some, the Magistrates restrict the number of licensed houses and require the fulfilment of conditions in respect of size, separation from dwelling house, and suitability of premises; in others, hardly any restriction appears to have been imposed in any particular, and in some the number licensed is very great.

43. *Reports of 1846 and 1859 recommended minimum rent and maximum number.*—It has often been proposed that the number of licensed houses of all kinds should be graduated according to population, one to each 500 being the ideal proportion, and many witnesses have suggested that no licence should be granted in respect of premises below a minimum annual value. The Select Committee of 1846, above referred to, reported that in their opinion the Justices of Peace for each county should appoint a committee for the purpose of ascertaining and fixing the number of public houses necessary for the wants of each district for a certain number of years prospectively; and they further suggested the appointment of local committees to fix the minimum rent of houses to the occupants of which new licences should be granted. The Commission of 1859 recommended that no certificate should be granted with respect to any house not already licensed, or to any new tenant of any house already licensed, unless the annual value of such house be, in small towns and rural districts, £10; in towns containing 5000 inhabitants, £15; in towns of from 5000 to 20,000 inhabitants, £20; and in larger towns, £30. It will thus be seen that two different principles have been suggested for the

purpose of determining the number and character, in any district, of premises for the sale of excisable liquors—the one being that the licensing authority, or a committee of their number, should fix the number of houses according to the requirements of the district, or with reference to the population; the other being to fix a minimum rent for premises (1) according to the value of property in the district; (2) according to the population of the district. This latter principle has been recognised by Parliament in the Act of 1872, and, we think, would with advantage be extended to Scotland.

44. *Licensing committee should be empowered to fix numbers.*—With regard to the number of houses which should be licensed, we think that the county or burgh licensing committee should be required to fix, at intervals of three or five years, what shall be the greatest number of houses in respect of which licences of all kinds are to be granted in any town or district within their jurisdiction, so that, by the lapse or forfeiture of licences, the existing number may be reduced to the prescribed limits. In several counties of Scotland, for example that of Haddington, the Justices have for many years laid down and maintained such regulations for the guidance of the licensing benches in the several districts. Through the operation of the regulations in force in that county, the number of licensed houses of all kinds in the landward part has been reduced from 140 in 1841 to 68 in 1876–7.

45. *Indispensable conditions.*—The following conditions have been indicated by many witnesses, and we think them indispensable to the enforcement of the law as regards licensed grocers' premises:—

1. That there shall be—

- (1) No internal communication between the licensed premises and the dwelling house or other unlicensed premises:
- (2) No side or back entrance to the licensed premises:
- (3) No blinding of the windows or door by colouring or obscuring the glass, or by hanging placards, or by arranging the stock so that it shall be impossible for the interior of the premises to be observed from without:

- (4) No screen or partition within the licensed premises.
2. That penalties shall be imposed for making, after obtaining the licence, any such alterations in the premises as shall be in breach of the foregoing restrictions, and that the licence itself shall in addition be forfeited, as provided in the English Licensing Act for a similar offence. We would except from the penalty of loss of licence the offence of hanging placards or arranging stock, unless in the opinion of the Magistrates this had been wilfully or repeatedly done for an illegal purpose.
3. That no excisable liquors shall be upon the licensed premises except in bottles or jars corked and sealed, and that the violation of this rule shall also involve loss of certificate.

46. *Objections of trade to last condition.*—The representatives of the trade generally objected to the last-mentioned requirement, on the ground of its inconvenience; but we are convinced that in no other way can the consumption of liquor on the premises be prevented if the seller be disposed to permit it. We do not suppose that such a provision will render evasion impossible, but if it be made a breach of certificate for a grocer to have liquor in open vessels upon his licensed premises, we believe that it will be generally effectual. We are informed that in some cases the cellar is licensed as well as the shop. We are not insensible to the inconvenience that will be caused to many traders already certificated, by the alterations in their premises now proposed, but we are proposing measures which in many cases will lead to a reduction in the number of licensed houses, and which will render the possession of a certificate even more valuable than it is at present. We think, therefore, that with due notice the trader may fairly be called upon to submit to restrictions necessary for the enforcement of the law against those disposed to evade it.

47. *Presence of drinking utensils should be sufficient evidence of consumption.*—The English Licensing Act provides that, 'in proving the sale or consumption of intoxicating liquor . . . it shall not be necessary to show that any money actually passed,

or that any intoxicating liquor was actually consumed, if the Court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place.' We think that a similar provision might with advantage be adopted in Scotland. The Public Houses Act (Scotland) Amendment Act of 1862 provided, in the case of shebeens, that it is sufficient 'in order to warrant . . . conviction . . . that the premises contained drinking utensils;' and if the restriction with regard to the sale in open vessels be adopted, we think that it would not be an undue provision that the presence of such utensils on the licensed premises as would subject the 'shebeen' keeper to a penalty, should render the licensed grocer liable to conviction for a breach of his certificate.

48. *Limitation of size of bottle.*—It has been proposed that sales of spirits by grocers shall be limited to quart or pint bottles. We fail to perceive that any advantage would accrue from such restriction. It would undoubtedly inconvenience a very large class of customers, and possibly divert business from the grocer to the publican. It might also increase intemperance by inducing the purchase of a larger quantity than is actually desired. It does not seem to us to be of any consequence what is the size of the bottle or other vessel, so that it is closed when kept for sale.

49. *English law as to drinking near premises should be applied to Scotland.*—The provisions of the Licensing Act (England), with reference to the seller permitting liquor to be consumed on any highway adjoining or near the premises, as already referred to, should be applied to Scotland.

50. The foregoing we regard as conditions which have been proved indispensable to the enforcement of the law; but we are far from being confident that they will be at once effectual where abuses are of long standing, and are in favour with many of the holders of licences and their customers.

51. *Hours should be shortened.*—We have stated that the Act of 1862 prohibited licensed grocers from selling liquors before 8 in the morning or after 11 at night. But they are, at liberty to have their shops open during any hours for their other business, and it is stated that some sell liquor before the public houses can open. It appears, however, from the

evidence before us, that it is not usual for licensed grocers to have their shops open before 8 A.M., or later than 11 P.M., and it is desirable that they should not be allowed to do so, inasmuch as facilities are thereby afforded for breaking the law. There was, moreover, a general desire expressed by the trade witnesses that an earlier hour for closing should be prescribed—such as 8 on ordinary days and 10 on Saturdays. On Saturdays the enactment of the earlier hour would deprive many persons engaged in this trade of an extensive business. We are not insensible that this increased restriction may be viewed as a measure of convenience to the trade, by relieving those who are disposed to close early of the necessity of keeping their shops open later on account of the different practice of others; but as there was a general concurrence in the recommendation by the members of the trade who came before us, by the official witnesses, and by many others, we think that it is one which on public grounds should be adopted.

52. It was stated to us incidentally that 'in one burgh the Magistrates allow the whole of the innkeepers and public house-keepers to open their houses at 7 A.M., which is contrary to law, because the Act says, as was decided in the case of Rothesay, that it is only in a district of a town that this can be done. The Act is quite clear that in a district of a town the Magistrates may grant other hours; for instance, the Magistrates at Ayton granted longer hours to Eyemouth during the fishing season—from 6 o'clock in the morning; but that is only a district of the county.' In Rothesay the Magistrates, misapprehending their powers, had closed all the licensed houses at 10 P.M., and it was stated to us that while this rule was in force the improved order and quiet of the town was remarkable. We refer to this evidence particularly, because the grocers would not be willing, in all cases, to submit to the further restriction of their hours, except on the supposition that the law is to be maintained in its present limitation of the hours of public houses.

53. *Sale in open vessels to children should not be allowed.*—The existing prohibition in the certificate 'to sell or supply liquors to girls or boys apparently under fourteen years of age,' has been held in the High Court of Justiciary not to apply when the children are acting as messengers, the seller being obliged

to satisfy himself of the fact. It is urged that the delivery to children should be prohibited in all circumstances, on the ground that the errand itself is demoralizing, and that as the liquor is in many cases delivered in the open vessels brought for the purpose, or in bottles loosely corked, the children are tempted to taste it on their way home, and to acquire early an inclination for strong drink. If, as we have recommended, the sale of spirits by grocers be confined to sealed bottles, the evil would be greatly mitigated, but it may well be required that no child shall be supplied with excisable liquor in a licensed house of any description on any pretence.

54. *Disadvantage of present system to unlicensed grocer.*—We have only as yet considered the system of grocers' licences from one point of view, but there remains to be considered another class of objections. We have stated that we have received representations from unlicensed grocers of the disadvantage under which they carry on their business in competition with their rivals in trade who are licensed. We received several deputations representing members of the unlicensed trade. They stated that the absence of a licence largely affected their profits; that whereas the profit on ordinary groceries could not be reckoned at more than 10 per cent., that on whisky might be taken at 25; that they failed to obtain and sometimes lost the custom of persons who prefer to buy their groceries and liquors at the same place. One grocer, having a very respectable business, who had formerly held a licence for many years, but who voluntarily resigned it on account of his dislike or that of his family to the trade in liquors, stated that its loss entailed a falling off in his profits to the extent of 25 per cent., which it had taken fifteen years to recover.

55. It was alleged by some who thus complained, that the licensed grocers systematically sold common articles of groceries at or below cost price for the sake of attracting business, and made up the loss by their profits upon spirits; but this was by no means established by sufficient evidence, the cases in which certain articles were specified appearing to be such as a tradesman might make a specialty in his business, and charge upon them a lower profit than usual. There can, however, be no question that the possession of a licence by a grocer gives him

a great advantage in business, both by giving to it two branches, of which that of liquor-selling is the more simple and the less hazardous, and in suiting the convenience of customers, in which particular the evidence of both branches of the trade concur, though stated with opposite intentions. Hence the licensing authority has to choose between granting licences to all applicants who satisfy certain conditions, and giving to certain individuals a great advantage over others in the same trade. The former alternative appears to have been adopted in many towns, and it can hardly be doubted that in such cases the liquor trade is by increased competition actively stimulated ; whereas, if the public interests and requirements be alone consulted, the effect must be to create a limited and profitable monopoly. The case of public house and hotel licences, where a similar choice of policy rests with the licensing authority, is not exactly parallel, as the publican has no other business which may be promoted or depressed by their decision.

56. *Inducements offered by sale of drink in grocers' shops.*— There remains also the patent fact, urged upon our attention both in the interests of temperance and by the advocates of the unlicensed tradesmen, that the presentation of strong liquor to customers in their frequent resort to the grocer or provision dealer, coupled with the manifest interest of the tradesman to push the most profitable part of his business, is very likely to operate in the encouragement of indulgence, which in Scotland generally takes the direction of ardent spirits. Indeed, we could not but be surprised at the number of persons who came to state their own unfortunate experience of the results of such temptation, and we cannot doubt that it is one to which many persons have yielded. At the same time it must be borne in mind that the limited scope of our inquiry precluded us from obtaining any general evidence as to the evils which have been similarly described as arising from public houses.

57. *Separation of trades — Difficulty of carrying this out.*— The question which has to be decided is, whether the combination of the trade of liquor dealer with that of grocer is so inherently bad that it calls for the entire disturbance of a trade which, as we have before observed, is of very old

standing, and which has been expressly recognised by Acts of Parliament. It has been shown in evidence that a large portion of the persons engaged in it are accused of no offences, and are among the most respectable and long-established traders in the community. But it appears to us that the combination is fraught with great danger, and has been productive of great evil; and we are inclined to believe that the only perfect solution of the difficulty, or complete cure of the evils complained of, would be the entire separation of the two trades. This separation was strongly urged upon us as advisable by several witnesses of high position and intelligence, such as the late Lord Kinnaird, Mr. Smythe of Methven, and, to a certain extent, by Mr. D. M'Laren, M.P. It cannot be doubted, however, that there are many difficulties in the way of carrying out such a proposal, and seeing it is probable that those difficulties would prove insuperable, we recommend that other measures should speedily be taken to restrain the evils of which we have reported.

58. It is unquestionably for the interest of the community that no undue temptations should be thrown in the way of the weak or unwary, but the State cannot undertake to guard individuals from the effects of want of principle. It appears, even from the testimony of the chief objectors to the system of grocers' licences, that it is a propensity to self-indulgence that leads to the secret purchase of intoxicating liquors; and it may well be doubted whether the withdrawal of licences from grocers would deter those who have a vicious 'craving' for drink. It is within our own knowledge that in villages where, from the action of local administration, there is no licence held by a grocer, women determined to obtain spirits will obtain articles on credit from provision dealers or other tradesmen, and sell them for a lower sum in order to procure the means of gratifying their inclinations from the publican in the absence of the grocer. All that the law can do, without trenching on the liberty of the subject, is to see that a trade which Parliament has recognised is carried on within the prescribed limits founded on common sense and the consideration of public order. It is to be expected that the influences of education, and a healthy moral tone in the community, fostered by religion and civilisation, will be more

effectual than excessively restrictive legislation in leading to improved habits of decency and moderation.

59. *Present scale of licences should be materially increased.*—It may, however, be worth consideration whether on the one hand the privileges of a restricted trade are adequately earned by the present scale of licences, and whether on the other the penalties for offences against good order at present exacted are sufficient to deter the vicious and unruly. The licence duty payable for the privilege to sell by retail are :—

For Beer, Cider, and Perry—

If rated under £10,	£2	10	0
„ at £10 and under £20,	4	4	0

For Spirits—

If rated under £10,	4	4	0
„ at £10 and under £20,	5	5	0
„ 20 „ 25,	9	9	0
„ 25 „ 30,	10	10	0
„ 30 „ 40,	11	11	0
„ 40 „ 50,	12	12	0
„ 50 and upwards,	13	13	0

We think that, along with diminution in the number of persons to whom licences are granted, the amount of licence duty might be materially increased, and that the lowest scale of licences for the sale of spirits should be abolished.

60. *There should be higher penalties for drunkenness.*—With reference to the penalties exigible for drunkenness, it appears that while in England a person found drunk is liable to a penalty not exceeding 10s., on a second conviction within 12 months to one not exceeding 20s., and on a third conviction within a period of 12 months to a penalty of 40s., and while a person who on any highway or public place is drunk when in charge of a carriage, horse, or steam engine, etc., may be apprehended, and is liable to a penalty not exceeding 40s., or in the discretion of the Court to imprisonment, with or without hard labour, for a period of one month, a man in Scotland found drunk or incapable in a public place is liable to a penalty of 5s. only, and even if he were in charge of a carriage is liable under the general law to no greater sum. The witness

who calls attention to this disparity in the law of England and Scotland, remarks that in the criminal returns from some of the counties of Scotland, it appears that persons found drunk and incapable are seldom or never interfered with, because the 5s. penalty is not recoverable, and the person is generally at a long distance from the prison to which he could be taken. The alternative of imprisonment is only for 24 hours, and to take a man by railway from the place at which he is apprehended costs perhaps 10s., so that it is not worth while to incur the expense for all the length of imprisonment that can be inflicted. We think, therefore, that in respect of persons found drunk and incapable, higher penalties should be enforced.

61. *Purchaser who breaks the law should be punished.*—The same witness called attention to the difference between the laws of England and Scotland with respect to the punishment of persons who cause licensed tradesmen to offend. 'There is no provision in the Scotch law for the punishment of the party purchasing, except in the case of "shebeens," or persons falsely representing themselves as travellers; but in England it is different. I remember a remarkable case at Coldstream, where two gentlemen's servants went into a house on a Sunday morning and got drink. The innkeeper, as soon as he was detected, said at once to the policemen, "I will plead guilty. Don't bring the witnesses, because the masters will know of it." The man was convicted and fined 50s. Had that occurred at Cornhill, on the other side of the Tweed, both the publican and the other two men would have been brought up, and that would have checked them from breaking the law again. Indeed, that is the great blot in our Act of Parliament, because it is only directed to punish the seller of the drink, and not the person who causes the seller to suffer.' (Q.) 'Would you punish the man who buys in a grocer's shop, and who drinks on the premises?' 'I would . . . and that would put a stop to a very great deal of what I observe from the newspapers has been said by previous witnesses about the law being broken over and over again.' It must be remarked that the provision referred to applies only to public houses in England, and not to spirit grocers. This recommendation has, however, frequently been made to us, and we

see no reason why the law of England should not be applied to Scotland also in this particular.

62. *Objections to Act of 1876.*—Several complaints of the operation of the Publicans' Certificate (Scotland) Act, 1876, were made to us. Its general principle was objected to, on the ground that the confirming committee, a minority, have the power to annul the grant of a licence by a majority, which, moreover, consists of persons presumed to possess local and special knowledge of the cases in question. This might occur in many cases in the revision of the decisions of district licensing courts; but it was specially mentioned in the case of the city of Edinburgh, which is also a county. There, it was stated by the city clerk, the Act gives the committee, composed of three city Magistrates and three county Justices, a *quorum* of whom consists of four members, the power of reversing the decision of the whole of the Magistrates, and he represented that the power so exercised was 'unconstitutional.' A contrary objection was made by the chief constable of the county of Dumfries, who stated that, owing to the senior burgh Magistrate being chairman, and having a second vote in the case of an equal division, the action of the county Justices was rendered nugatory to reduce the number of licences. It appears to us that, as regards the discretion of the city or burgh Magistrates, it is at least sufficiently guarded against arbitrary interference by the possession of a casting vote by one of their own number. The Act in question has been so recently passed that it would be premature to express an opinion as to its results; but it should not be forgotten that it only extended to Scotland provisions which have been for several years in force in England, and that its object was to remedy what was considered the unsatisfactory operation of the former procedure. It was also urged as unjust that the refusal of a new certificate should be final, while the objector, who may be unsuccessful before the Justices, may have his objections heard again by the confirming committee; but, for the reasons above stated, we do not think it our duty to express any opinion upon the point.

63. In one particular the Act of 1876 seems to require amendment. The Act provides that a grant of a new

certificate shall not be valid unless it shall be confirmed by the licensing committee; and in the interpretation clause 'a new certificate' is defined as meaning 'a certificate granted by the competent authority . . . to any person in respect of any premises which are not certificated at the time of the application for such grant.' It is evident that under these words the Justices or Magistrates might (without any confirmation being required) convert every licensed grocer's shop within their jurisdiction into a public house, or *vice versa*, which was probably not the intention of the Act.

64. *Necessity of annual application for renewal complained of.*—It has been represented that unnecessary trouble and inconvenience are caused, especially to wine merchants, by the necessity of an annual application for the renewal of their certificates, and that this should be only required in the event of any complaint being brought against an individual. We do not think that it would be practicable to set up a distinction between members of the same trade in respect of an obligation which is imposed as generally expedient.

65. *Grocers should send signed order with articles distributed by cart in the country.*—With regard to the distribution of liquor through the country by the carts of licensed grocers, it is to be regretted if the effect be, as is stated, to neutralize the efforts of the Justices to limit the opportunities of procuring liquor in their respective districts; but it is impossible to prohibit a practice which supplies the requirements of those who choose to purchase from the neighbouring towns an article probably superior to that which can be obtained in a country district. We think, however, in order to prevent as far as possible the abuse of this legitimate practice by persons really carrying liquor for sale, that all vessels carried in the carts of carriers or tradesmen should bear addresses to the persons by whom they have been ordered, and that the bearer should produce, when called upon by a duly constituted authority, the signed order on account of which the liquor is furnished.

66. *Condition of licence should be painted over the door.*—A suggestion made to us anonymously appears to us to be worthy of adoption, viz. that over the door of every licensed house should be printed conspicuously the conditions of the licence

as thus—‘Licensed to sell wines, ales, and spirits, not to be consumed on the premises.’

67. *General result shown by returns in App. B.*—It will probably be expected that we should state the results of our inquiry with respect to the increased or diminished prevalence of drunkenness in Scotland, as it has been freely alleged in many quarters that there has been a relapse in this respect, and by some persons that such relapse has been in great measure produced by the facilities afforded by the licensed grocers. As the statements of witnesses with regard to this part of the question were based largely upon preconceived opinions and impressions, and as even those which were based upon facts within their knowledge had but a limited and local application, we endeavoured to procure, by means of the returns presented in our Appendix B., the means of pronouncing an opinion founded on the most comprehensive summary of facts. The returns for the earlier years are incomplete, and it is somewhat difficult to arrive at a satisfactory conclusion; but the general result seems to show an increase in the amount of drunkenness throughout Scotland; and almost without exception those returns which show an increase in the number of licensed houses give a corresponding increase of cases of drunkenness. This may perhaps in some districts be to some extent accounted for by the increase of population, and in such places the percentage of drunkenness to population may not have increased; but it will be seen that drunkenness has materially increased in other districts where the population has either actually decreased or increased to a very limited extent. In the county of Lanark, in spite of a great reduction in the percentage of licensed houses to the population, drunkenness appears to be on the increase, and is out of all proportion to the increase of population. On the other hand, the return for the city of Glasgow shows a marked decrease in the last two years in the number of persons found drunk and incapable. This fluctuation in the numbers may be accounted for by the dullness of trade and low rate of wages, and is to be noticed in several returns which come from mining or manufacturing districts. Some returns show a decrease in the numbers of licensed houses, but an increase in the amount of drunkenness. In other places where grocers’ licences appear to exist to a

considerable extent there is a marked increase in the amount of drunkenness. There seems to be a general tendency to reduce the number of licensed houses of all kinds; but this reduction has not as yet tended to a general diminution in the amount of drunkenness or crime throughout the country.

68. *Allegations of adulteration not substantiated by evidence.*—Allegations have been made to us that the liquor sold by licensed dealers is frequently adulterated. It has been commonly said that this is more often the case in respect of liquor retailed by publicans; but we have been at pains to procure evidence from medical men, professional chemists, public analysts, distillers, officers of the Inland Revenue department, and wholesale dealers, of the truth of such allegations. We have failed to procure evidence in a single instance of any spirits sold for consumption, or discovered in the store of any tradesman, which have been found to be adulterated with any substance foreign or unwholesome, or indeed with any element other than water. The public analysts of Glasgow had tested many samples of spirits kept for sale by publicans and grocers, and had never found any foreign substance but water, which they had discovered in quantities varying up to 33 per cent. The public analyst of Edinburgh gave evidence to the same effect.

69. *Blending of whiskies.*—Whisky as produced by distillers is usually blended by the wholesale dealer with other whiskies, in order to produce a palatable article, the new spirit distilled from raw grain requiring the admixture of malt spirit or other kindred compound to suit the palate. It is also mixed occasionally with cheap foreign spirits, distilled from beet or potatoes, for the sake of the larger profit thereby obtained.

70. *Fusel oil in, and age of whisky.*—It was alleged to us that the spirit retailed by grocers is, by reason of its superior age, more wholesome than that usually sold by publicans; and some trade witnesses stated that, in their opinion, malt spirit was not fit for consumption for a considerable time, six months, one year, two years, or even three years, till it has thrown off the deleterious excess of fusel oil, or amylic spirit, which it contains in an early stage after distillation. It is well known that whisky becomes softer, and, to the refined palate, more agreeable when it has been kept in the wood for a considerable

time; but we learn that the larger distillers at least employ a process by means of which the fusel oil is extracted from the raw grain spirit during distillation, so that even very new whisky, though to the *connoisseur* unpalatable, is really not abnormally hurtful. It is probable that, when mixed with raw malt spirit for the sake of flavour, it may be drunk sooner than is advisable, the new malt spirit containing a considerable quantity of the amylic spirit; but we have no reason to believe that any spirit is in common use in Scotland which is in any sense poisonous, although ardent spirits must be unwholesome when consumed in excess, or by persons who have not taken regular meals. It has been stated that the immediate effects of drams of whisky upon working men are occasionally so violent that some deleterious element must be present, but we believe that such effects are no more than may be accounted for by the circumstances of ardent spirits undiluted being drunk by men exhausted by hard labour or fasting.

71. *Appointment of public analysts.*—We deem it highly advisable that the powers given to local authorities to appoint public analysts for the inspection of food and liquors kept for sale should be more extensively taken advantage of, for we cannot pretend to have made an exhaustive or comprehensive examination of a question not strictly lying within the scope of our inquiry.

SUMMARY.

72. *Recommendations.*—The following is a summary of the recommendations which we would offer:—

- I. That the provisions of section 35 of the Licensing Act (England), 1872, and sections 16 and 17 of the Licensing Act (England), 1874, giving power to the police at all times to enter on any licensed premises, be applied to all licensed houses in Scotland.
- II. That the County Licensing Committee and the Joint Committee for the Burgh should be empowered to fix, for a period of years, the

maximum number of licensed houses for each town, district or populous place, and the *minimum* rent of licensed houses in each county or town, or in each district of a county or town.

III. That the following general provisions be made conditions in granting licences to grocers—namely, That there shall be

- (1) No internal communication between the licensed premises and the dwelling house or other unlicensed premises.
- (2) No back or side entrance to the premises.
- (3) No blinding or obscuring of the windows or door.
- (4) No screen or partition within the premises.

IV. That penalties, including forfeiture of licence, as provided in section 9 of the Licensing Act (England), 1872, shall be imposed for making, after obtaining the licence, any such alterations in the premises as shall be in breach of the foregoing restrictions.

V. That no spirits shall be kept within the licensed premises except in bottles or jars, corked and sealed.

VI. That the provisions of the Licensing Act, England and Ireland, with respect to drinking near the premises be applied to Scotland.

VII. That two convictions of breach of certificate shall involve the forfeiture of the licence, instead of three being required, as is at present the case.

VIII. That the entry of spirits in any pass-book or account under any other name shall be considered a breach of certificate.

IX. That the provisions of section 62 of the Licensing

Act (England), 1872, with regard to the evidence of sale or consumption of liquor, and also of section 19 of the Public Houses (Scotland) Acts Amendment Act, 1862, with regard to the proof of sale in unlicensed premises, be made applicable to charges of alleged drinking on or near the premises of licensed grocers.

- X. That the penalties imposed by section 5 of the Licensing Act (England), 1872, upon the seller for allowing drinking on the premises, contrary to his licence, be applied to the premises of licensed grocers, and that the purchaser who consumes on the premises shall also be subject to a penalty.
- XI. That licensed grocers shall only be permitted to have their premises open between the hours of 8 A.M. and 8 P.M., and with the consent of the licensing Magistrates until 10 P.M. on Saturdays.
- XII. That penalties, as provided by section 9 of the Licensing Act (England), 1874, shall be imposed for infringing the law as to the hours of closing.
- XIII. That no sale or delivery of spirits to a child under fourteen years of age shall be lawful in any description of licensed house on any pretence.
- XIV. That the rate of licence duties be raised, and the lowest rate abolished.
- XV. That penalties be imposed for being drunk, in a public place, or when in charge of a carriage, horse, or steam engine, similar to those exigible in England, and that the present penalty of five shillings for being found drunk and incapable be increased.
- XVI. That all articles of excisable liquors conveyed in carts shall bear the addresses of the persons by whom they have been ordered, and that the

person in charge shall be bound to produce, when called upon, the signed order therefor.

XVII. That over the door of every licensed grocer, the conditions of the certificate shall be conspicuously printed.

All which we humbly submit to your Majesty's gracious consideration.

JAMES FERGUSSON.
A. CAMPBELL SWINTON.
PETER M'LAGAN.
JAS. ARTHUR CRICHTON.
WM. FERGUSON.



EPITOME OF REPORTS

OF

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EPITOME OF REPORTS OF DECIDED CASES
UNDER THE PUBLIC HOUSES ACTS,
ETC., FROM 1862 TO 1884.

Decision of Quarter Sessions cannot be appealed to Circuit Court.

I. *Appeal*.—A hotelkeeper was convicted before the Justices of breach of certificate. Upon appeal to the Justices in Quarter Sessions, the conviction was affirmed. Against this decision an appeal was taken to the Circuit Court of Justiciary. Held incompetent under the 33rd and 34th sections of the Public Houses Acts Amendment (Scotland) Act, 1862. *Purdie v. Mitchell*, Glasgow, 6th Oct. 1863; Irvine, iv. p. 447.

Held that Circuit Court could not entertain appeal by hotelkeeper who was convicted of breach of certificate.

II. *Appeal*.—Held that the Court of Justiciary has no jurisdiction to entertain an appeal against a conviction under the Public Houses Acts Amendment (Scotland) Act, 1862, for keeping open a hotel, and permitting persons to be therein who are not lodgers and do not require accommodation. Question whether this was a relevant charge, drinking not being alleged. *Crosbie v. M'Minn*, High Court, 3rd Jan. 1865; Irvine, v. p. 10.

Complaint against publican held on appeal to Circuit to require amendment, and sent back for the purpose to Justices.

III. *Appeal*.—Complaint against a publican for breach of certificate was held on appeal to the Circuit Court of Justiciary

not to be in conformity with the Summary Procedure (Scotland) Act, and remit made to the Justices to direct its amendment. *Baird v. Rose*, Ayr, 27th Sept. 1865; Irvine, v. p. 200.

Justices cannot grant licences within a burgh.

IV. *Appeal*.—Held that the Justices of Peace of a county have no jurisdiction to grant licences with respect to those parts of the county which are included within the limits of a Parliamentary burgh, though outwith the ancient royalty. *Booth v. Lang*, Glasgow, 27th April 1867; Irvine, v. p. 371. —*Scottish Law Reporter*, iv. p. 2.

Shebeening—Special permission, etc.

V. *Appeal* against a conviction ‘of the offence charged,’ obtained upon a complaint under the 17th section of the Public Houses Acts Amendment (Scotland) Act, 1862, charging trafficking in exciseable liquors without having obtained ‘a certificate for the sale of such liquors in Perthshire,’—sustained in respect the complaint did not set forth a relevant statement of the offence. Held that it is competent under Section 6 of said Act for the chief Magistrate or the two senior Magistrates of any burgh, or any two Justices of the Peace of any county, to grant special permissions to sell exciseable liquors at special entertainments within their jurisdictions to persons holding licences and certificates applicable to premises within different burghs or counties from that in which the special entertainment is to take place. And that the chief officer of police is bound to supply the statutory certified copy of the permission to any holder thereof lodging the same with him, in terms of the statute, irrespective of the burgh or county to which the holder of the permission belongs. Held that the respondent is debarred from pleading, and the High Court cannot entertain as a reason for refusing to sustain an appeal an alleged ground of conviction not pleaded before the Sheriff nor before the Circuit Court, and which did not appear *ex facie* of the complaint and procedure to have been the ground upon which the Sheriff had proceeded in convict-

ing. *McDonald v. Gordon*, High Court, 2nd and 3rd Nov. 1868; Couper, i. p. 105.—*Scottish Law Reporter*, v. p. 120.

Forfeiture of certificate for first offence.

VI. *Appeal* against a conviction and sentence for a first offence under the Public Houses Acts Amendment (Scotland) Act, 1862, on the ground that the respondent's certificate was therein declared to be forfeited, while the complaint did not contain any prayer for forfeiture, dismissed; such forfeiture being, in terms of 9 Geo. IV. cap. 58, sec. 21, within the discretion of the Court in the case of first or second offences. *Ritchie v. Magistrates of Montrose*, Dundee, 10th Sept. 1869; Couper, i. p. 332.—*Scottish Law Reporter*, vii. p. 1.

Hawking spirits—Conviction quashed on account of expenses having been illegally awarded.

VII. *Suspension.*—Held incompetent to award expenses in terms of section 22 of the Summary Procedure Act in a conviction and sentence upon a complaint for a contravention of section 16 of the Public Houses Acts Amendment (Scotland) Act, 1862, brought under the Summary Procedure Act, expenses not being authorized by said Public Houses Act. Such sentence suspended accordingly. *Ross v. Stirling*, High Court, 22nd Oct. 1869; Couper, i. p. 336.—*Scottish Law Reporter*, vii. p. 13.

Conviction against hotelkeeper for breach of certificate, which provided for imprisonment failing immediate payment of fine, quashed.

VIII. *Appeal.*—In an appeal to the Circuit Court against a conviction pronounced by burgh Magistrates, acting under the Public Houses Acts, on the ground that the sentence was *ultra vires*, in so far as it ordered instant imprisonment on failure to pay a fine, whereas the statute authorized imprisonment only after fourteen days' failure. Held (1) that excess of jurisdiction was a ground of appeal which could competently be dealt with by the Circuit Court, in virtue of sections 30 and 34 of the Heritable Jurisdictions Act (20 Geo. II. cap. 43),

notwithstanding the provisions in sections 33 and 34 of the Public Houses Acts Amendment (Scotland) Act, 1862; and (2) that the sentence being *ultra vires* and illegal, the appeal fell to be sustained and the conviction set aside. *Rhodes v. Ross*, Stirling, 23rd Sept. 1870; Couper, i. p. 469.

Ale an exciseable liquor.

IX. *Appeal*.—In an appeal against a conviction under the Summary Procedure Act for breach of certificate, on the ground that the drink sold was not an exciseable liquor. Held (1) that the appeal was competent; (2) that ale was an exciseable liquor within the meaning of the Public Houses Acts. *Holland v. Dickie*, High Court, 12th June 1871; Couper, ii. p. 61.—*Scottish Law Reporter*, viii. p. 559.

Conviction quashed on account of clerical error in sentence.

X. *Appeal*.—The penalty in a sentence under the Summary Procedure Act was originally written out as of the amount of Two pounds ten shillings, and the word 'three' was written over the word 'two.' Conviction quashed on the ground that this was a vitiation in *essentialibus* which could not be corrected by parole proof, to the effect that the alteration had been made before the sentence was read to the accused or signed. *Clarkson v. Muir*, High Court, 19th July 1871; Couper, ii. p. 125.—*Scottish Law Reporter*, viii. p. 681.

Conviction against hotelkeeper for breach of certificate sustained, although stated in complaint to have been committed in one of several ways described in complaint—Conviction sustained, although plea of guilty not authenticated by signature either of accused or Magistrate.

XI. *Appeal*.—Objection to a conviction against an hotelkeeper finding him 'guilty of the offence charged,' upon a complaint charging 'an offence against the Public Houses Acts,' in so far as he did keep his hotel open on a particular Sunday for the sale of exciseable liquors, or suffer drinking therein, or sell the same; that the conviction was cumulative, while the charge was alternative; repelled, and held that the offence

was not an alternative one, but charged only as committed in one or other of three different ways. Objection also that the plea of guilty was not authenticated by the signature either of the appellant or of the presiding Magistrate repelled, and the appeal dismissed. *Scott v. Morrison*, Jedburgh, 9th April 1872; Couper, ii. p. 218.—*Scottish Law Reporter*, ix. p. 447.

Appeal to Quarter Sessions against conviction—Quarter Sessions erred in not allowing evidence to be led de novo.

XII. *Suspension*.—A publican having appealed upon the merits to the Quarter Sessions against a conviction pronounced by the Justices in Petty Sessions, upon which no record of evidence had been kept, the Justices refused to allow evidence to be led *de novo* before the Quarter Sessions, and dismissed the appeal. Held that the Justices were bound to hear the evidence *de novo*, and their judgment suspended and the appeal remitted to them to proceed. The Public Houses Acts Amendment (Scotland) Act, 1862 (sections 33 and 34), allows an appeal from Quarter Sessions to the Circuit Court on certain grounds, and excludes any other form and ground of review. Held that the jurisdiction of the High Court of Justiciary to suspend a judgment of the Quarter Sessions pronounced under said Acts was not excluded where the ground of suspension was that the Justices had declined to exercise their jurisdiction in an appeal, by refusing to allow evidence taken before the Petty Sessions to be adduced before them *de novo*, and the suspension sustained. *Muckersie v. M'Dougall*, High Court, 27th Nov. and 11th Dec. 1874; Couper, iii. p. 54.—*Scottish Law Reporter*, xii. p. 148.

Publican selling in partially burned certificated premises not shebeening.

XIII. *Suspension*.—Held that the partial destruction by fire of premises for which an unexpired public house certificate had been granted did not put an end to the certificate, so as to subject the publican to the penalties imposed by section 17 of the Public Houses Acts Amendment (Scotland) Act, 1862, for trafficking in spirits without a licence, in respect of his

having continued to carry on his business within the partially destroyed building pending repairs. *Craig v. Peebles*, High Court, 16th June 1875 ; Couper, iii. p. 143.

Conviction for supplying liquor to child under fourteen years of age sustained.

XIV. *Appeal*.—An appeal against a conviction for breach of certificate by a publican by selling exciseable liquors to a child apparently under fourteen years of age, dismissed. Held that although a breach of certificate would not be committed by supplying liquor to such child when he is a messenger for an adult, yet the publican is not entitled, without inquiring and satisfying himself, to assume that the child is the messenger of an adult. Also, that in order to establish such a charge, it is not incumbent on the prosecutor to prove that the liquor was supplied to such child for its own consumption. *Donaldson v. Linton*, High Court, 8th Dec. 1875 ; Couper, iii. p. 203. —*Scottish Law Reporter*, xiii. p. 163.

Not oppression to declare hotelkeeper's certificate forfeited on one conviction, etc.

XV. *Suspension*.—Held that it did not amount to oppression so as to warrant suspension that, in convicting an hotelkeeper for the offence of keeping open house on Sunday, the Magistrate, besides imposing a penalty, declared the certificate to be forfeited, it being a first offence. Also, that it was not sufficient ground to warrant suspension that another case had been called before the police court during the trial of the suspender, with his consent, but without any minute continuing the diet being put on record. *M'Intyre v. Linton*, High Court, 1st June 1876 ; Couper, iii. p. 298.

Not necessarily breach of certificate for publican to be in licensed premises with friend after hour for closing.

XVI. *Suspension*.—Held that the fact of a person being in his licensed public house in company with another after pro-

hibited hours, the outside doors being fastened, did not, *per se*, constitute the statutory offence of keeping open house. *M'Gregor v. Lang*, High Court, 1st June 1876; Couper, iii. p. 289.

Conviction for shebeening against a hotelkeeper quashed, a forfeiture of a transferred certificate not applying to a new certificate granted him.

XVII. *Appeal*.—An hotelkeeper, who held a transferred certificate, obtained on 11th April 1876 a new certificate for the same premises for the period from 15th May following; and on the 4th of that month, on being convicted of having on Sunday, 23rd April previous, sold liquor to persons not being lodgers or travellers, his certificate was declared to be forfeited, and null and void from the date of his conviction. He sold no liquors between 4th and 15th May, but resumed selling on latter date, and on being prosecuted was convicted and sentenced for selling without having obtained a certificate, and appealed. Held that the declaration of forfeiture and nullity in the sentence of 4th May 1876 applied to the transferred certificate, which would have expired on the 15th of that month; and that, as the new certificate was subsisting in July 1876, the conviction of having sold exciseable liquors on the 1st of that month without having obtained a certificate was bad. *M'Intyre v. Linton*, High Court, 21st July 1876; Couper, iii. p. 319.

Publican selling to child under fourteen years—messenger—conviction quashed.

XVIII. *Appeal*.—Circumstances in which a conviction of a publican for breach of certificate, by selling exciseable liquor to a child under 14 years of age was quashed, in respect that the child was, *de facto*, a messenger from an adult, although the liquor was sold without special inquiry made as to whether the child was such a messenger. *Graham v. Lang*, High Court, 22nd Dec. 1876; Couper, iii. p. 366.—*Scottish Law Reporter*, xiv. p. 179.

Conviction for harbouring constables by a publican quashed.

XIX. *Appeal*.—A conviction of a publican, under section 24 of the County Police Act, 1857, for harbouring, or entertaining, or permitting three police constables while on duty to abide and remain in a public house, set aside on appeal, in respect the facts stated were insufficient to warrant a conviction against one of the constables, who was not said to have been in uniform or on duty at the time; and the sentence being cumulative, the penalty could not be apportioned. Also in respect that while the complaint was alternative, the conviction did not specify the alternative found proven. *Greig v. Taylor*, High Court, 23rd Feb. 1877; Couper, iii. p. 382.—*Scottish Law Reporter*, xiv. p. 375.

In shebeen case illegal to allow time for payment of fine—Sentence signed by one of three Justices who presided, this was held not to be a question of law which fell within the provision for review in the Summary Provisions Appeals Act.

XX. *Appeal*.—In a prosecution under the Public Houses Acts for trafficking in exciseable liquors without a certificate, the Justices after convicting the accused, imposed a penalty, and ordained him, 'in default of payment within four days' of the penalty being imposed, to be imprisoned for a period not exceeding six weeks. Held, in an appeal at the instance of the prosecutor, that the enactment in section 17 of the Public Houses Acts Amendment (Scotland) Act, 1862, was imperative, and that the Justices were not entitled to substitute the words 'in default of payment within four days' in the sentence, for the words 'in default of immediate payment,' and remit made to the Justices with directions to amend their judgment. In the prosecution of this case, which was instituted before three Justices of the Peace, the conviction was signed by one only of the Justices as chairman, and no objection to the want of authentication was taken by the accused at the time. Held, in an appeal by him under the Summary Prosecutions Appeals Act, upon the question 'Whether the conviction was not inept and null, being subscribed by only one Justice of the Peace,' that this was not

a question of law in regard to a determination or judgment come to by the Justices, but amounted only to an objection in point of form, which did not fall within the provision for review in section 3, subsection 9, of the Summary Prosecutions Appeals Act, and the appeal dismissed. *Leishman v. Colquhoun*, High Court, 13th July 1877; Couper, iii. p. 482.—*Scottish Law Reporter*, xiv. p. 643.

Publican not guilty of breach of certificate although side door of shop open for cleaning before 8 A.M.

XXI. *Appeal*.—Held that a publican was not guilty of breach of a certificate in the Form No. 2, Schedule A of the Public Houses Acts Amendment (Scotland) Act, 1862, by keeping open house during prohibited hours, the side door of whose public house was proved to have been open before 8 o'clock A.M., for the purpose of cleaning the premises. *Wood v. Campbell*, High Court, 8th Nov. 1877; Couper, iii. p. 508.—*Scottish Law Reporter*, xv. p. 54.

Held hotelkeeper not guilty of breach of certificate by supplying engine-driver and guard of a passing goods train on a Sunday.

XXII. *Appeal*.—Held that the keeper of a hotel near a railway station, who supplied exciseable liquors at his hotel to the engine-driver and guard of a passing goods train upon a Sunday, contrary to the railway company's regulations, was not guilty of a breach of his certificate, in respect that the railway servants were in the position of *bona fide* travellers. *Brunton v. Bremner*, High Court, 6th Feb. 1878; Couper, iv. p. 1.—*Scottish Law Reporter*, xv. p. 346.

Conviction under Glasgow Police Act for entertaining constables sustained.

XXIII. *Appeal* by a police constable against a conviction for a contravention of section 93 of the Glasgow Police Act, 1866, by entering a public house during the hours, and not in the exercise of his duty, dismissed, and the conviction sustained. *Beggs and Others v. Procurator-Fiscal of Glasgow*, Police

Court, 6th Feb. 1878 ; Couper, iv. p. 9.—*Scottish Law Reporter*, xv. p. 347.

Publican entertaining his personal friends on his licensed premises where he resided, not guilty of breach of certificate.

XXIV. *Appeal*.—Held upon an appeal against a conviction for breach of certificate, that the giving of a *bona fide* gratuitous entertainment by a publican to his friends, with exciseable liquors, after 11 P.M. within his licensed premises, in which he resided, after the same was closed, did not amount to a contravention of the condition of his certificate in Schedule A, No. 2 of the Public Houses Acts Amendment (Scotland) Act, 1862, which declares that he shall not keep open house or permit or suffer any drinking on any part of the premises belonging thereto, or sell or give out therefrom any liquors before 8 o'clock of the morning, or after 11 o'clock of the night, in respect that there was no trafficking in exciseable liquor on the occasion libelled. *Smith v. Stirling*, High Court, 6th March 1878 ; Couper, iv. p. 13.—*Scottish Law Reporter*, xv. p. 420.

Publican not guilty of breach of certificate although persons supplied before 11 P.M. remained on premises 15 minutes after that hour.

XXV. *Appeal*.—Held that the fact of a publican having permitted persons, who had been served with liquor in his house before 11 o'clock P.M., when it was closed, to remain for 15 minutes thereafter, did not warrant his being convicted for breach of his certificate, on the ground that he had kept open house after prohibited hours, there being no proof that liquor was supplied or drinking carried on after 11 P.M. *Wood v. M'Call*, High Court, 14th March 1878 ; Couper, iv. p. 43.—*Scottish Law Reporter*, xv. p. 439.

Publican who held a special licence to sell liquors at an auction mart on a Monday morning some distance from his shop, gave liquors on Sunday to carrier to convey to the mart, held not guilty of breach of certificate by so doing.

XXVI. *Appeal*.—A publican who held a special licence for

the sale of exciseable liquors at an auction mart, $1\frac{1}{2}$ miles distant from his public house, gave out on a Sunday such liquors from his public house to a public carrier, that they might be conveyed to the mart, and was thereupon convicted of breach of certificate, and sentenced by the Justices. Held in an appeal that in so doing he had not *given out* exciseable liquors in the sense of the prohibition in his certificate prohibiting the selling or giving out exciseable liquors on a Sunday, and the conviction and sentence set aside accordingly. *Hogarth v. M'Dougall*, High Court, 6th Nov. 1878; Couper, iv. p. 128. —*Scottish Law Reporter*, xvi. p. 70.

Publican's conviction for breach of certificate quashed on account of ambiguity in sentence—Held that a publican gratuitously giving a postboy a glass of whisky, who was driving some of his customers after 11 o'clock at night, was not guilty of breach of certificate.

XXVII. *Appeal*.—Some customers of a publican left his premises about 10.30 P.M. to go to the railway station, expecting to get a train there to take them home. They found that the train did not stop at their destination, and returning to the public house were admitted, and allowed to remain after 11 o'clock, while a conveyance was being got for them from a neighbouring stable. When the conveyance came to the door the landlady of the public house gave gratuitously to the post-boy a glass of whisky before the party started, as the night was cold. No liquor was supplied to the customers after 11 o'clock. The publican having been convicted of breach of certificate in general terms, the conviction quashed on the ground of ambiguity, the Court at the same time intimating that the facts stated did not amount to a breach of certificate, either by keeping open house or selling or giving out liquor after 11 o'clock at night. *Boyd v. M'Jannet*, High Court, 21st May 1879; Couper, iv. p. 239.—*Scottish Law Reporter*, xvi. p. 549.

In cases of shebeening not necessary to specify section contravened—*Conviction against a publican for shebeening, by selling liquor at a flesher's shop door, quashed, it being held to be an act of hawking.*

XXVIII. *Appeal*.—A licensed publican was charged with

'an offence against the laws for the regulation of public houses in Scotland,' in so far as, after 11 o'clock at night, 'he did at or near the door of' a certain flesher's shop, 'unlawfully traffic in spirits, or other exciseable liquors, without having obtained a certificate in that behalf, and such offence is the first offence.' Held that it is not necessary to specify the section of the statute on which such a complaint proceeded; 2nd, that the 17th section of the Public Houses Acts Amendment (Scotland) Act, 1862, anent 'shebeening,' and not the 16th section anent 'hawking,' was the one to which the complaint by its terms manifestly referred; but that, 3rd, the *locus* 'at or near to the door of' a flesher's shop was not one in which an offence under the 17th section could be committed; the *locus* being one, *sua natura*, incapable of being licensed; and that therefore the libel was irrelevant, and conviction thereon quashed. *Hamilton v. Inglis*, High Court, 22nd May 1879; Couper, iv. p. 245.—*Scottish Law Reporter*, xvi. p. 551.

Conviction against publican for permitting prostitutes to assemble sustained—His knowledge of their character presumed.

XXIX. *Appeal*.—In an appeal by a publican against a conviction for breach of certificate by permitting women of notoriously bad fame to assemble or meet in his public house, observed that it is unnecessary for the prosecutor in order to secure a conviction, either to aver in the complaint or to prove knowledge on the part of the publican of the women's bad character, but on proof of the fact of their being prostitutes, and of notoriety in the place where the public house is situated, the knowledge of the publican may be presumed. Held also that the conviction was in the circumstances of the case warranted, and the appeal dismissed. *Maxwell v. Malcolm*, High Court, 12th Nov. 1879; Couper, iv. p. 289.—*Scottish Law Reporter*, xvii. p. 105.

Conviction of publican for permitting prostitutes to assemble quashed—Held that facts proved did not warrant conviction on second charge—Opinion of Judges as to proof required in such cases as to purpose of assembling and notoriety of women.

XXX. *Appeal*.—A publican charged with breach of certifi-

cate by permitting or suffering women of notoriously bad fame to assemble and meet together in his public house, upon a complaint containing two separate charges, on being convicted and sentenced to pay a *cumulo* fine applicable to both charges, appealed on the ground that the facts found proved were not sufficient in law to warrant a conviction under the second charge. Held that upon the fact stated the second charge had not been established, and as the fine could not be apportioned, the appeal sustained, and the conviction set aside. Opinion *per* Lord Young, that to support such a charge it must be proved that the assembling or meeting had reference to the bad character of the persons assembling. Opinion also *per* Lord Adam, that the notoriety of the bad character necessary to establish such a charge is not sufficiently substantiated by being proved to have been a notoriety within the knowledge only of the police of the district within which the public house is situated. *Kirton v. Cadenhead*, High Court, 13th Oct. 1880; Couper, iv. p. 366.—*Scottish Law Reporter*, xviii. p. 19.

Conviction against a grocer, whose assistant had given out of shop, after it was shut, two gills of whisky, which was consumed in the assistant's house, quashed.

XXXI. *Appeal*.—In this case a grocer was convicted of breach of certificate by trafficking in exciseable liquors to be consumed on the premises. About 9 o'clock of an evening two men called at the shop to purchase whisky. Finding it shut, they went into the house of the grocer's assistant, who lived next door, and got him to go into the shop for two gills of whisky. He delivered the whisky to them in his room, and then left. They remained there till they had consumed the whisky. Conviction quashed, held that the case did not come within the scope of section 15 of the Forbes Mackenzie Act, 1853.—*Pirie v. Cudenhead*, High Court, Feb. 1881.

Conviction for breach of certificate quashed—Alternative charges—Sentence ambiguous.

XXXII. *Appeal* against a conviction under the Public Houses Acts for breach of certificate, the question was whether the

facts proved were sufficient to sustain the conviction. It was contended that while the charge was alternative the conviction was general, and did not state which of the alternative charges was found proven. To this view the Court gave effect, and quashed the conviction.—*Duffes v. Charleson*, High Court, June 1881.—*Scottish Law Reporter*, xviii. p. 573.

Conviction for shebeening against a grocer who held a wholesale excise licence quashed on account of want of specification, etc.

XXXIII. *Suspension*.—A grocer, who held a wholesale licence from the Excise to sell quantities exceeding two gallons, sold a pint of whisky to a woman sent by the police, was convicted of shebeening. Conviction quashed, Lord Young holding that it ought to have been averred in the complaint that the accused had sold less than the two gallons he was allowed under his excise licence to sell. The Lord Justice-Clerk intimated that the Judges were all satisfied that the conviction could not be allowed to stand, although the grounds on which they thought so were not altogether identical. *Blaikie v. Linton*, High Court, June 1881.—*Scottish Law Reporter*, xviii. p. 583.

Conviction against hotelkeeper quashed—Alternative charges and conviction general—Question as to Greenwich time raised.

XXXIV. *Appeal* against a conviction by a hotelkeeper for breach of certificate in respect that the complaint contained three alternative charges: that he kept open house; that he permitted or suffered drinking, or that he sold or gave out drink after 11 o'clock at night, or before 8 o'clock in the morning; while the conviction or sentence was general. Another point stated for the appellant was that the public clock at Whithorn was kept from three to five minutes before Greenwich time, and that allowing for the difference in situation of the two places, the actual time at Whithorn on the occasion in question was 11 o'clock. Conviction unanimously quashed. *Gerrard v. Broadfoot*, High Court, Nov. 1881.

Procurator-fiscal appealed against acquittal of hotelkeeper on charge of breach of certificate—Appeal dismissed.

XXXV. *Appeal* by a procurator-fiscal, the respondent being a hotelkeeper. The latter was acquitted by the Justices on a charge of breach of certificate. The question in law raised for decision was whether there being two gentlemen in the hotel who were not lodgers, and had been found consuming liquor between midnight and 2 o'clock in the morning, this did not constitute a contravention of the Act specified. The Judges without any formal decision dismissed the appeal, and gave expenses to the hotelkeeper. *Gemmill v. Fleck*, High Court, Oct. 1882.—*Scottish Law Reporter*, xx. p. 27.

Conviction of hotelkeeper for breach of certificate quashed—Charges alternative and sentence general—Opinion that a guest of lodgers in a hotel getting refreshment did not amount to breach of certificate.

XXXVI. *Appeal* by a hotelkeeper against a conviction for having contravened his certificate by keeping open house, or permitting or suffering drinking on the premises, which was not for the refreshment of travellers or persons lodging in the house, between 11 P.M. and 1 A.M., quashed, the charge being alternative and sentence general. It appeared that two lodgers had a guest in the hotel with them after 11 o'clock, who received some liquor. Lord Young and the Lord Justice-Clerk gave it as their opinion that the facts of the case did not amount to a breach of certificate. *Murray v. M'Dougall*, High Court, Feb. 1883.—*Scottish Law Reporter*, xx. p. 369.

Conviction of a publican under the Weights and Measures Act for using glass measures without being verified, quashed, as use of such vessels when sale not by measure lawful—Right of appeal in weights and measures cases given by Appeals Act, 1875, on questions of law.

XXXVII. *Appeal*.—An interesting question was submitted to the Court in regard to the legality of publicans having in their possession certain glass vessels used in the selling of

whisky other than imperial measures. The case came up on appeal by a publican in Glasgow, who had been convicted for the use in his trade of three glass vessels, on the ground that they were not properly verified, and further under the 29th Section of the Weights and Measures Act, 1878. The appeal was taken on the ground that these vessels were not imperial measures, were never represented to be so, but were used by the trade in the way of selling a less quantity than the imperial measures.

Objection was taken to the appeal on the ground that a conviction under the Weights and Measures Act could only be appealed to the Circuit Court. Their Lordships held that under the General Act of 1875 a right of appeal was given without reservation on questions of law being stated in a case.

It was explained for the appellant that the glass vessels produced in Court were used when customers asked for 3d. or 6d. worth of whisky, the imperial gill being 7d.

Their Lordships, following the opinion of Lord Young, unanimously sustained the appeal, quashed the conviction, and found the appellant entitled to expenses.

Lord Young said the Weights and Measures Act was a very important measure, and they should not willingly do anything which would interfere with its wholesome application. All things were not sold by weight or measure, and although all things were capable of being weighed or measured, the statute only applied to sales by weight or measure. Whisky, beer, liquors were not all necessarily, and were by no means universally sold by measure, although what was sold otherwise than by measure must be sold in or out of the vessel that contained it, and which in a sense might be represented as a measure, for everything that contained liquid would measure it. If a man asked for a glass of sherry, a glass of whisky, or a small glass of cherry brandy, or curaçoa, he was in a sense buying by measure, but it was not by any known measure customary or imperial. It had reference to the thing in which it was supplied for use, and glasses were of a great variety of sizes. It was altogether a novelty to say they were setting the law at defiance if they got a glass of beer at a railway station without seeing it was stamped as an imperial measure. To sell a glass of beer or 3d. worth of whisky was not to sell

by measure at all. They might sell in any vessel they liked without incurring the penalty if they did not represent it to be a sale by measure. The appellant here had not done so, and there had consequently been no contravention of the statute. *Craig v. Procurator-Fiscal of Glasgow*, High Court, March 1883.—*Scottish Law Reporter*, xx. p. 506.

Appeal by a publican who had been convicted of committing breach of certificate on Sunday, and who admitted supplying liquor on two occasions to a carriage-driver as a friend, dismissed.

XXXVIII. *Appeal* by a publican in Fifeshire against a conviction obtained against him for breach of his certificate by keeping open house and supplying liquors on Sunday. It was contended for appellant that he had between the hours of 9 and 10 A.M. of a Sunday, and again on the evening of same day, given a 'nip' of whisky to the driver of a carriage with a party, and that this was given merely out of friendship to the driver. It was pointed out for the respondent that there was another element in the case, and that was that the Magistrates were satisfied from the evidence and from their knowledge that Sunday trading had been carried on.

Lord Young said the Bench were unanimously of opinion that there were not sufficient grounds in this case for disturbing the judgment of the Magistrates. The appeal was accordingly dismissed with modified expenses to the respondent. *Wilson v. Procurator-Fiscal*, High Court, Nov. 1883.

Conviction of a grocer for breach of certificate by selling liquor to be consumed on the premises, sustained.

XXXIX. *Appeal*.—In this case a grocer in Edinburgh complained of a decision in the Edinburgh Police Court convicting him of selling liquor to be drunk on the premises. It was alleged for the appellant that the conviction was incompetent, on the grounds that the complaint did not state the kind of certificate held by the complainer, that the quantity of liquor was not stated, that it was not stated that the liquor was actually consumed on the premises, and that it was proved at the trial that no money was given or received for the glass of

ale said to have been supplied by the complainer. Their Lordships dismissed the appeal, Lord Craighill being of opinion that everything necessary for a complaint had been set forth in the charge, and Lord Adam saying the complainer must have known that his certificate was a grocer's certificate, and did not permit him to supply liquor to be drunk on the premises. Modified expenses were allowed. *Haig v. Procurator-Fiscal*, High Court, 21st Nov. 1883.

Conviction quashed on the ground that the alternative of paying a fine 'within fourteen days' had been omitted.

XL. *Appeal*.—A licensed grocer in Pittenweem appealed against a conviction for breach of certificate—'selling or giving out drink on a Sunday'—and fine of 58s. Objections were taken for appellant to the relevancy of the libel, and also to the way in which it was managed by the town clerk, who also acted as procurator-fiscal. In particular, that the conviction was general, while the charge was alternative. It was explained that the police, listening at a window about 1 o'clock on Sunday morning, heard a woman's voice in the room say, 'It's your turn to stand a "nip" now,' and on gaining admission they found a farmer and a railway porter drinking, and all the inmates pleaded upon them not to make a case of it. Appellant complained also of being sentenced to pay the fine, or go to prison at once, whereas there should have been the statutory option of paying within 'fourteen days.' On the other side it was said that this excess of jurisdiction was not exercised. The Court, following the judgment of Lord Young, quashed the conviction on the latter ground, his Lordship remarking that it was unfortunate that this conviction, substantially a good conviction, should fail upon a blunder. It had been settled by the precedent of the case of Rhodes that fourteen days should be allowed for payment of the fine.—*Grubb or Ritchie v. Brown*, High Court, 21st Feb. 1884.

Refused to interfere with a conviction because of evidence given by official who took the precognitions.

XLI. *Appeal*.—A publican at Macdowall Street, Edinburgh,

appealed against a conviction for selling ale to a woman in a state of intoxication, and asked that Sheriff Rutherford, who tried the case, should be required to state and sign a case for the judgment of the Court. For the appellant it was submitted that as he had proved the drunkenness was not obvious to any one in his premises—the evidence of two policemen, who had been watching the woman, and observed her staggering outside, being preferred—he was not liable to conviction. He further objected to the admission of evidence by a witness named Stars, who had taken the precognitions. The Court said they would consult with the Sheriff as to whether he considered this evidence material for his judgment. Subsequently Lord Young stated that they had seen the learned Sheriff, and he said the evidence in question had no effect upon his mind. The appeal was therefore dismissed. *Morison v. Linton*, High Court, Feb. 21, 1884.



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